

# Exhibit A



**CT Corporation**  
**Service of Process Notification**

05/03/2022  
CT Log Number 541513477

## Service of Process Transmittal Summary

**TO:** Paul Bech  
Chubb  
436 Walnut St  
Philadelphia, PA 19106-3703

**RE:** Process Served in Virginia

**FOR:** ACE American Insurance Company (Domestic State: PA)

### ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

**TITLE OF ACTION:** IDA CASON CALLAWAY FOUNDATION, INC. vs. ACE AMERICAN INSURANCE COMPANY

**CASE #:** 760CL2200107400

**NATURE OF ACTION:** Insurance Litigation

**PROCESS SERVED ON:** C T Corporation System, Glen Allen, VA

**DATE/METHOD OF SERVICE:** By Process Server on 05/03/2022 at 04:26

**JURISDICTION SERVED:** Virginia

**ACTION ITEMS:** CT has retained the current log, Retain Date: 05/04/2022, Expected Purge Date: 05/09/2022

Image SOP

Email Notification, Incoming Legal incominglegal@chubb.com

**REGISTERED AGENT CONTACT:** CT Corporation System  
4701 Cox Road  
Suite 285  
Glen Allen, VA 23060  
800-448-5350  
MajorAccountTeam1@wolterskluwer.com

The information contained in this Transmittal is provided by CT for quick reference only. It does not constitute a legal opinion, and should not otherwise be relied on, as to the nature of action, the amount of damages, the answer date, or any other information contained in the included documents. The recipient(s) of this form is responsible for reviewing and interpreting the included documents and taking appropriate action, including consulting with its legal and other advisors as necessary. CT disclaims all liability for the information contained in this form, including for any omissions or inaccuracies that may be contained therein.

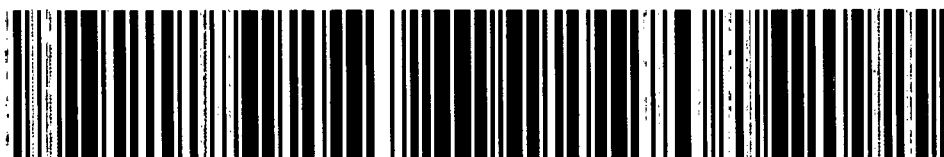


## PROCESS SERVER DELIVERY DETAILS

**Date:** Tue, May 3, 2022  
**Server Name:** Drop Service

Entity Served	ACE AMERICAN INSURANCE COMPANY
Case Number	760CL2200107400
Jurisdiction	VA

Inserts		



## COMMONWEALTH OF VIRGINIA



RICHMOND CITY CIRCUIT COURT  
Civil Division  
400 NORTH 9TH STREET  
RICHMOND VA 23219

### Summons

To: ACE AMERICAN INSURANCE COMPANY  
C/O REGISTERED AGENT  
C T CORPORATION SYSTEM  
4701 COX ROAD #285  
GLEN ALLEN VA 23060

Case No. 760CL22001074-00

The party upon whom this summons and the attached complaint are served is hereby notified that unless within 21 days after such service, response is made by filing in the clerk's office of this court a pleading in writing, in proper legal form, the allegations and charges may be taken as admitted and the court may enter an order, judgment, or decree against such party either by default or after hearing evidence.

Appearance in person is not required by this summons.

Done in the name of the Commonwealth of Virginia on, Tuesday, April 26, 2022

Clerk of Court: EDWARD F JEWETT

by

A handwritten signature in black ink, appearing to be "E. Jewett", written over a horizontal line.

(CLERK/DEPUTY CLERK)

Instructions:

Hearing Official:

Attorney's name:

SPALDING, HENRY C; III  
100 SHOCKOE SLIP  
RICHMOND, VA  
804649-7545

VIRGINIA:

IN THE CIRCUIT COURT FOR THE CITY OF RICHMOND

IDA CASON CALLAWAY FOUNDATION, INC.,

Plaintiff,

v.

Case No.: CL22-1074-7

ACE AMERICAN INSURANCE COMPANY,

Defendant.

**COMPLAINT**

Comes now the plaintiff, Ida Cason Callaway Foundation, Inc. ("Callaway"), by counsel, pursuant to Virginia Code Section 8.01-184 and otherwise, and states the following as its complaint seeking declaratory judgment and for monetary damages:

1. This action is brought, in part, to determine the presence or absence of insurance coverage available to Callaway for business interruption losses it has incurred, and which it continues to incur, which Callaway contends are covered by an insurance policy, policy number GPA D42219174 003 ("the Policy"), issued by defendant ACE American Insurance Company ("ACE"). A copy of relevant parts of the Policy are attached hereto as Exhibit A and are incorporated by reference herein. By endorsement, Callaway is a named insured under the Policy.

2. At all times relevant to this action, Callaway is and has been a non-profit corporation organized under the laws of the State of Georgia and having its principal place of business located in Pine Mountain, Georgia. At all times relevant herein, Callaway has owned and operated a resort located in Georgia known as Callaway Gardens Resort ("Callaway Gardens").

3. On information and belief, ACE is a property and casualty insurance company licensed to do business in the Commonwealth of Virginia.

4. Beginning in March of 2020, Georgia Governor Brian Kemp issued a number of executive orders, including Executive Orders 03.23.020.01, 04.02.20.01 and 04.08.20.04, which, among other things, limited capacity at Callaway Gardens' numerous attractions and otherwise interrupted business at Callaway Gardens, partially closing its operations while these orders were in effect.

5. The Policy, at Section 20, contains extensions of the Policy's business interruption coverage which states, in relevant part, the following:

**20. EXTENSIONS OF BUSINESS INTERRUPTION  
COVERAGE**

This Policy, subject to all its provisions and without increasing the amount of said Policy, insures against loss, Business Interruption, Extra Expenses, Expense to Reduce Loss, Soft Costs, Rental Value, Rental Income, Royalties and Leasehold Interest (collectively, "Contingent Business Interruption") resulting from the perils insured against, to the following:

\* \* \*

h) Loss of Attraction - This Policy is extended to insure loss as insured hereunder, including Clean Up and Remediation, when there is an interruption or interference with the business of the Insured as a consequence of:

1. Infectious or contagious disease manifested by any person while on the premises of the Insured and access to such location is limited, restricted or prohibited by an order of an authorized governmental agency regulating the actual not suspected presence of communicable disease.

However, this coverage will not apply to any losses sustained from an event arising from the 2019 Coronavirus (COVID-19).

\* \* \*

4. Closing of the whole or part of the Covered Property of the Insured by order of a public authority consequent upon

the existence or threat of hazardous conditions either actual or suspected at the Covered Property of the Insured.

6. Callaway incurred losses which it estimates to be in excess of the \$1,000,000.00 business interruption coverage limit set forth in the Policy because Callaway was forced to close a part of its business by order of a public authority (Governor Kemp's executive orders discussed above) consequent upon the threat of hazardous conditions suspected at Callaway Gardens, a Covered Property under the Policy.

7. ACE has denied Callaway's loss of attraction/business interruption claim, per correspondence dated September 15, 2021, and October 15, 2021, attached hereto, collectively, as Exhibit B.

**COUNT ONE – DECLARATORY RELIEF**

8. Callaway incorporates by reference herein the allegations set forth in paragraphs 1 through 7 of this complaint as if fully set forth herein.

9. The Policy affords coverage to Callaway under Section 20(h)(4), cited above, for losses it incurred as a result of the partial closure of Callaway's covered property by order of a public authority consequent upon the threat of hazardous conditions suspected at Callaway Gardens.

10. ACE has unreasonably denied Callaway's claim.

11. No valid exclusion found in the Policy would serve to defeat coverage. Callaway has complied with all material terms and conditions contained in the Policy.

12. A justiciable controversy ripe for adjudication exists between the parties because ACE has denied Callaway's claim.

WHEREFORE, the plaintiff, Ida Cason Callaway Foundation, Inc., by counsel, moves this Court for entry of an order declaring that:

(a) ACE is obligated to pay plaintiff's insurance claim made under Section 20(h)(4) of the Policy; and

(b) Any other relief the Court may deem appropriate.

**COUNT TWO – BREACH OF CONTRACT**

13. Callaway incorporates by reference herein its allegations set forth in paragraphs 1 through 12 of this complaint as if fully set forth herein.

14. Callaway has paid all premiums and otherwise complied with all requirements under the Policy prior to bringing this lawsuit.

15. ACE has materially and substantially breached its contract of insurance (that is, the Policy) by refusing to pay plaintiff's insurance claim.

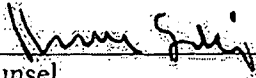
16. Callaway has been damaged as a result of ACE's breach of contract in an amount in excess of the Policy's \$1,000,000.00 limit for business interruption claims.

WHEREFORE, the plaintiff, Ida Cason Callaway Foundation, Inc., by counsel, moves this Court for entry of judgment in the amount of \$1,000,000.00, plus prejudgment and post-judgment interest and costs, and for any other relief the Court may deem appropriate, under Count Two of this complaint.

Trial by jury is demanded.



IDA CASON CALLAWAY FOUNDATION, INC.,

  
By Counsel

Henry C. Spalding, III, Esq. (VSB No. 34382)  
John P. O'Herron, Esq. (VSB No. 79357)  
ThompsonMcMullan, P.C.  
100 Shockoe Slip  
Richmond, VA 23219-4140  
Telephone: 804-649-7545  
Facsimile: 804-780-1813

**CHUBB**Renewing or in lieu of **D42219174 002**

**ACE American Insurance Company**  
**436 Walnut Street**  
**Philadelphia PA 19106**

**POLICY NO: GPA D42219174 003****DECLARATIONS**

		Service Office: NYU Agency No: 272066	
<b>Insured:</b>	Resort Hotel Association, Inc.	<b>Agent/Broker:</b>	ALLIANT INSURANCE SERVICES
<b>Address:</b>	2100 E Cary St FL 3 Richmond VA 232237270	<b>Address:</b>	140 EAST 45TH STREET SUITE 6B NEW YORK NY 10017

**Policy Period:** From March 08, 2020 at 12:01 A.M., to March 08, 2021 at 12:01 A.M. Standard Time at the location of property insured.

To the extent that coverage in this policy replaces coverage in other policies terminating at noon standard time on the inception date of this policy, coverage under this policy shall not become effective until such other coverage has terminated.

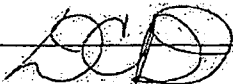
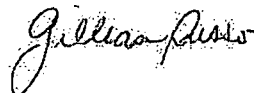
The insurance afforded is only with respect to the specific part and coverages therein, the full title of which is set forth below the caption "Form."

PERILS INSURED	COVERAGE PROVIDED	FORM	LIMITS OF INSURANCE	PREMIUM
All Risk	Property Damage/Time Element	AS PER MANUSCRIPT WORDINGS ATTACHED	\$3,750,000 part of \$25,000,000 excess of various deductibles	
AGENT/BROKER: ALLIANT INSURANCE SERVI				TOTAL

Endorsements attached to policy at inception: See Attached Schedule of Endorsements and Notices AGP-46572 (08/15)

Surcharges at inception:

Signature of Licensed Agent (if required)

This Declaration and Form(s), with Policy Standard Conditions and Endorsements, if any, issued to form a part thereof, completes the above numbered policy.

UW6033B

**Chubb. Insured.**  
 March 24, 2020

**EXHIBIT****A**

Labeller

## Schedule of Endorsements and Notices

Endorsement 1	Biological Or Chemical Materials Exclusion
Endorsement 2	Occurrence Limit Of Liability Endorsement
Endorsement 3	Combined Millennium Endorsement
Endorsement 4	Electronic Data Endorsement A
Endorsement 5	Mold, Mildew & Fungus Clause And Microorganism Exclusion (Map)(Time Limit & Sublimit)
Endorsement 6	Pollution, Contamination, Debris Removal Exclusion Endorsement
Endorsement 7	Office Of Foreign Assets Control (OFAC) Disclosure Notice
Endorsement 8	Leader Clause – New Aquisitions/Deletions
Endorsement 9	Upgrade To Green – Commercial Endorsement
Endorsement 10	Loss Payees Endorsement - Special Term
MS-296553 (03/20)	Summary Schedule Of 2020 Member Deductibles
AGP-33235b (08/15)	Policy Change Endorsement
AGP-45216 (01/15)	Terrorism Exclusion
TRIA15d (01/15)	Exclusion of Certified Acts of Terrorism
AGP-33209 (12/17)	Policyholder Disclosure Notice Of Terrorism Insurance Coverage
AGP-33210a (7/19)	Biological, Chemical or Nuclear Exclusion
AGP-33229 (02/11)	Capping Of Limits Endorsement
AGP-33233a (06/17)	Political Risk Exclusion
AGP-43955 (05/16)	Products Recall Exclusion
AGP-43956 (09/14)	Certificates of Insurance Endorsement
AGP-43957 (09/14)	Contingent Time Element Deductible Endorsement
AGP-48925a (01/18)	Global Program Solutions Endorsement
AGP-52327 (07/19)	Lender's Loss Payable Endorsement
IL N 106 (09/03)	Virginia Changes – Cancellation And Nonrenewal
Benefit Level	Virginia - Fraud Statement
AGP-33227 (06/19)	Applicable State Amendatory Provisions
AGP-33236a (09/14)	Notification of Claims
ALL 20887 (10/16)	Trade Or Economic Sanctions Notice
IL P 001 01 04	Chubb Producer Compensation Practices & Policies
	U. S. Treasury Departments' Office of Foreign Assets Control ("OFAC") Advisory Notice to Policyholders
CC-1K11h (03/14)	Signatures



**Property / Boiler & Machinery Policy**

**12 Months Effective March 8, 2020**

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## Resort Hotel Association Property Policy – March 8, 2020

Capitalized terms used in this Policy have the meanings ascribed to them herein.

**1. NAMED INSURED**

This Policy does insure Resort Hotel Association, Inc. hereafter referred to as the "Insured."

**2. TERM OF INSURANCE**

In consideration of an annual premium of USD (100%) annual, (a minimum and deposit premium applies) this Policy attaches and covers for a period of one year from March 8, 2020 to March 8, 2021, beginning and ending at 12:01 A.M., standard time, (the "Policy Year") at the location of the property identified on a Loss Payee Endorsement. It is agreed that the actual effective time of attachment of this insurance on the above date shall be the same time on the above date as the actual effective time of cancellation or expiration of the Policy (ies) replaced or renewed by this Agreement

**3. PARTICIPATION**

This Policy covers for 15% being USD 3,750,000 part of Primary USD 25,000,000 excess of deductible interest in this insurance, and notwithstanding anything to the contrary in this Policy, the undersigned insurance company (the "Company") shall not be liable for more than this proportion of the Limits of Liability as specified in Clause 4.

**4. LIMITS OF LIABILITY**

This Company shall not be liable for more than its proportion of USD 300,000,000 per Occurrence, except for the program sublimits detailed below. When a program sublimit of liability is shown as applying in the annual aggregate, this Company's maximum limit of liability will not exceed its proportion of such sublimit during any Policy year regardless of the number of locations and coverage(s) involved. The total amount to be indemnified under this Policy shall not exceed the overall limit of USD 300,000,000. In all cases, the following sublimits are part of, and not in addition to the overall Policy limit, and shall apply unless the applicable Loss Payee Endorsement states that such sublimits are superseded.

**PROGRAM SUBLIMITS:**

USD 300,000,000	per Occurrence as respects Named Windstorm, as defined herein, to locations in Tier 1 Windstorm Counties as per Appendix #1 herein
USD 300,000,000	per Occurrence and in the annual aggregate as respects the peril of Flood for locations wholly or partially within the Special Flood Hazard Areas as defined herein.
USD 300,000,000	per Occurrence and in the annual aggregate as respects Earth Movement in Earthquake Zones as listed in Appendix #2 herein.
USD 10,000,000	per Occurrence and in the annual aggregate as respects Earth Movement in California as respects locations in which Loss Payee Pebble Beach Company and its corporate subsidiaries and affiliates have an identified interest specifically included in a Loss Payee Endorsement; otherwise,

## Resort Hotel Association Property Policy – March 8, 2020

	unless specifically endorsed hereon, or as appearing within a Loss Payee Endorsement, Earth Movement in California is excluded.
USD 100,000,000	per Occurrence as respects Accounts Receivable
USD 50,000,000	per Occurrence as respects Brands or Trademarks
USD 100,000,000	per Occurrence as respects Demolition and Increased Cost of Construction
USD 100,000,000	per Occurrence as respects Civil Authority occurring within 5 miles of Insured's location, not to exceed 60 consecutive days
USD 100,000,000	per Occurrence as respects Ingress / Egress occurring within 5 miles of Insured's location, not to exceed 60 consecutive days
USD 100,000,000	per Occurrence as respects Contingent Business Interruption for Tier 1 Suppliers or Customers, except USD 25,000,000 for Tier 2 Suppliers or Customers
USD 100,000,000	per Occurrence as respects Extra Expense
USD 100,000,000	per Occurrence as respects Fine Arts
USD 100,000,000	per Occurrence as respects Leasehold Interest
USD 100,000,000	per Occurrence as respects Rental Value and Rental Income
USD 100,000,000	per Occurrence as respects Off Premises Power/Period of Service Interruption, except \$250,000 per Occurrence loss or damage resulting from an Accidental Occurrence as defined herein (not to exceed 30 days)
USD 50,000,000	per Occurrence as respects Valuable Papers & Records
USD 100,000,000	per Occurrence as respects Boiler & Machinery Accident, except:
	USD 25,000,000 per Occurrence as respects Off Premises Property Damage as a result of a boiler and machinery accident
	USD 25,000,000 per Occurrence as respects Contingent Business Interruption as a result of a Boiler and Machinery Accident
	USD 12,500,000 per Occurrence as respects perishable goods as a result of a Boiler and Machinery Accident
	USD 25,000,000 per Occurrence as respects Expediting Expense as a result of a Boiler and Machinery Accident
	USD 5,000,000 per Occurrence as respects Hazardous Substance as a result of a Boiler and Machinery Accident
	USD 1,000,000 as respects Data Restoration, Replacement, and Research as a result of a Boiler and Machinery accident



## Resort Hotel Association Property Policy – March 8, 2020

	USD 1,000,000 as respects Soft Costs as a result of a Boiler and Machinery Accident
USD 50,000,000	per Occurrence as respects Errors & Omissions
USD 10,000,000	per Occurrence and in the annual aggregate as respects the application of the Mold, Mildew & Fungus Clause and Microorganism Exclusion.
	The greater of 25% of loss or USD 20,000,000 per Occurrence as respects Debris Removal. This sublimit does not apply to Plants, Trees, Shrubs, Lawns & Golf Courses.
USD 25,000,000	per Occurrence for Builders Risks for Property Damage and Business Interruption combined. However, this sublimit shall not apply to additions, improvements, renovations, alterations, or repairs to existing structures. (This sub-limit does not apply to Property Damage and Business Interruption losses to existing property that result from a covered Builders Risk loss)
USD 25,000,000	per Occurrence as respects Tax Liability
USD 25,000,000	per Occurrence as respects Coinsurance Deficiency
USD 25,000,000	per Occurrence as respects currency devaluation
USD 25,000,000	per Occurrence as respects Tenants & Neighbors Liability
USD 25,000,000	per Occurrence as respects Tax Treatment of Profits
USD 5,000,000	per Occurrence as respects Beach Improvements subject to a maximum of \$2,500,000 per Loss Payee Endorsement as respects beach and sand replacement/reclamation per Occurrence
USD 10,000,000	per Occurrence for Automatic Acquisitions (90-day reporting)
USD 10,000,000	per Occurrence for Property Damage and Business Interruption combined as respects Plants, Trees, Shrubs, Lawns & Golf Courses, including resultant Debris Removal not to exceed USD 5,000 any single Plant, Tree, Shrub or Lawn whether on or off a golf course or USD 550,000 per Golf Course hole  The term "Lawn" does not apply to golf course tees, greens or fairways.  Debris Removal included up to 25 feet beyond the tree line from where natural growth commences. Replacement of Plants, Trees, and Shrubs in the area excluded.
USD 5,000,000	per Occurrence as respects Attraction Properties within three miles of the Insured's premises
USD 5,000,000	per Occurrence as respects Miscellaneous Unscheduled Locations
USD 5,000,000	per Occurrence as respects Architects Fees & Engineering fees

## Resort Hotel Association Property Policy – March 8, 2020

USD 5,000,000	per Occurrence and annual aggregates as respects Pollutant and Contaminant Clean Up and Removal of land and water on Insured property
USD 5,000,000	per Occurrence as respects Use of Water
USD 5,000,000	per Occurrence as respects property in transit
USD 5,000,000	per Occurrence and in the annual aggregate as respects Upgrade To Green - Commercial Endorsement
USD 2,500,000	per Occurrence as respects Soft Costs. However, this sublimit shall not apply to additions, improvements, renovations, alterations, or repairs to existing structures.
USD 1,000,000	per Occurrence, but not to exceed USD 3,000,000 in the aggregate as respects Loss of Attraction
USD 250,000	per Occurrence, as respects Loss Adjustment Expenses
USD 250,000	per Occurrence as respects Fire Brigade Charges/Fire Extinguishing Materials and Expenses
USD 100,000	per Occurrence as respects Guest and 3rd Party Property while on the Insured's premises
USD 250,000	per Occurrence as respects Guest Relocation Expenses
USD 25,000	per Occurrence and USD 50,000 in the annual aggregate as respects Arson/Theft Reward
USD 25,000,000	Electronic Data Endorsement A NMA 2914 (Amended) – Endorsement#4
USD 1,000,000	per Occurrence as respects to Data Restoration to be added to Endorsement #4
Stated Value for Other Land Improvements	

**5. DEDUCTIBLE**

For the purposes of applying the Resort Hotel Association, Inc. Member's deductibles, which are stated below in this Clause 5 or, if different from the amounts stated below in this Clause 5, are listed in the applicable Loss Payee Endorsement (the "Member's Deductibles"), all losses, damages and expenses arising out of any one Occurrence shall be adjusted as one loss at any location or locations listed on the applicable Loss Payee Endorsement. From the amount of such adjusted loss shall be deducted the Members' Deductible, plus the difference between the Member's Deductible and USD 500,000 (the "Per Occurrence Deductible") such difference, plus loss adjustment expenses shall be paid by the Resort Hotel Association, Inc. for each Occurrence until an aggregate deductible of **USD 1,000,000** for the Policy Year (the "Aggregate Deductible") has been paid by the Resort Hotel Association, Inc.

Only the difference between the Member Deductible and the Per Occurrence Deductible plus loss adjustment expenses, shall reduce the Aggregate Deductible. Losses from the perils of Loss of Attraction, Flood, Earth Movement, Earthquake Shock, and Named Windstorm shall be subject only to the Member's Deductible and not to the Per Occurrence Deductible, nor shall these losses contribute to the exhaustion of the Aggregate Deductible.

Once the Aggregate Deductible is exhausted, the applicable deductible will only be the Member's Deductible. In all cases, the following minimum deductibles shall apply unless the Loss Payee Endorsement states different minimum deductibles.

USD 25,000 per Occurrence except:

Resort Hotel Association Property Policy – March 8, 2020

USD 100,000 per Occurrence for all losses involving Beach Improvements, and Other Land Improvements, except:

USD 500,000 as respects loss or damage from Named Windstorm to such property located in the Tier 1 Counties as listed in Appendix 1 of this Policy.

USD 500,000 for the peril of Flood in Special Flood Hazard Areas as defined herein

USD 100,000 per Occurrence for loss or damage involving plants, trees, shrubs, lawns or golf courses including, resultant debris removal, except:

USD 500,000 per Occurrence as respects loss or damage from Named Windstorm to such property located in the Tier 1 Counties as listed in Appendix 1 of this Policy.

USD 500,000 as respects the peril of Flood in Special Flood Hazard Areas as defined herein.

Service Interruption, Interruption by Civil or Military Authority, Ingress/Egress – 24 hour waiting period. If the period of interruption exceeds this waiting period, the applicable peril deductible which is stated on the individual Loss Payee Endorsement is then applied to the amount of loss sustained for the entire period of interruption, commencing with the time and date of the initial interruption. If the period of interruption is less than the waiting period, there shall be no liability under this Policy

USD 100,000 per Occurrence for Loss of Attraction or the all-risk deductible shown on the Loss Payee Endorsement, whichever is greater.

USD 25,000 per Occurrence as respects Preservation of Property from Named Windstorm to such property located in the Tier 1 Counties as listed in Appendix 1 of this Policy.

30 Day Waiting Period as respects Delayed Opening.

The all risk deductible shown on the Loss Payee Endorsement, or a minimum of USD 25,000 any one Occurrence (whichever is greater) as respects Terrorism.

The following additional provisions apply to Deductibles:

- a. If two or more deductible amounts in this Policy apply to a single Occurrence that involves multiple perils (or causes of loss) with differing deductibles, the total to be deducted shall not exceed the amount of the largest individual deductible pertaining to any one of the perils (or cause of loss) involved in the Occurrence. This subsection 5.a. does not apply in the instance of Plants, Trees, Shrubs and Lawns, and Golf Courses, Earth Movement, Earthquake Shock, and SFHA Flood, and Tier I Windstorm/Named Windstorm where the deductibles are applied separately by unit of insurance as per Loss Payee Endorsement).
  - i. However, in the event a single Occurrence involves multiple Resort Hotel Association, Inc. members' locations and/or properties that are damaged by the same peril or cause of loss and in which the applicable deductibles vary by location and/or insured property, each differing deductible shall be applied separately to the Insured's respective locations and/or properties or as further defined as per Loss Payee Endorsement.
  - ii. If a single Occurrence involves both multiple perils with differing deductibles, and also involves multiple locations or properties to which differing deductibles

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pertaining to the same peril apply separately to such locations or properties, then only the higher of the two deductibles shall apply to the entire Occurrence or as further defined in Loss Payee Endorsement.

- iii. In any Occurrence where loss or damage is caused by more than one peril insured against under this Policy, the Insured shall have the right to separate the loss amount by peril for the purposes of application of the deductible(s) specified in this section, notwithstanding the above.
- iv. The deductible amounts specified above shall not apply to general average contributions and salvage charges.
- b. If Other Insurance applies to the same property as insured hereunder, and to the extent recovery is made from such other insurance, the deductible under this Policy shall be reduced by such recovery, but in no event shall the deductible under this Policy be less than shown in the Policy. If recovery from such other insurance is greater than the deductible in this Policy, then the deductible under this Policy shall not apply.
- c. Wherein a Loss Payee Endorsement refers to a percentage deductible of the value, per unit of insurance, this deductible shall apply only to those units of insurance suffering a loss in the Occurrence. Furthermore, this deductible shall not apply to ensuing loss or damage caused by or resulting from fire, explosion and/or sprinkler leakage.

The amount of the deductibles above shall be determined by applying the above percentages, separately to each of the following units of insurance:

- (1) Each building or structure, not including the value of its foundations, which has sustained loss or damage;
- (2) Personal property within each structure if that personal property sustains loss or damage;
- (3) Personal property in the open that sustains loss or damage;
- (4) The Business Interruption values impacted by the direct loss or damage to said property that sustains loss or damage.

The values to be used when calculating the deductibles for each unit of insurance shall be determined at the time of loss. Business Interruption values are to be determined for the twelve (12) months following the date on which the loss occurs based upon the experience of the business for the location(s) that was damaged had not Occurrence taken place.

- d. Wherein a Loss Payee Endorsement refers to a minimum deductible with respect to Named Windstorm, the stated minimum amount shall apply in total for all units of insurance per Occurrence, per each Loss Payee Endorsement.

**6. LOSS PAYABLE**

Loss, if any, shall be adjusted with and payable to the Insured, or as directed by the Resort Hotel Association, Inc.

**7. TERRITORY**

This Policy covers worldwide, except for Afghanistan, Angola, Bosnia-Herzegovina, Burma (Myanmar), Congo (The Democratic Republic Of Congo or formerly known as Zaire), Croatia, Cuba, El Salvador, Guam, Haiti, Iran, Iraq, Laos, Lebanon, Liberia, Libya, Nicaragua, North Korea, Serbia-Montenegro, Slovenia, Sudan, Syria, Zimbabwe, Yugoslavia and/or territories formerly known as Yugoslavia (the "Territory");

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Furthermore, and notwithstanding the definition of coverage territory or anything else to the contrary no matter where located, if coverage for a claim under this Policy is in violation of any applicable economic, trade or other sanction or law, including without limitation any sanction administered or enforced by the U.S. Treasury Department's Office of Foreign Assets Control ("OFAC"), then coverage for that claim shall be null and void. The Territory includes coastal and inland waterways between points and places therein. The Territory does not include international waters.

**8. COVERED PROPERTY**

Except as hereinafter excluded, this Policy covers the interest of the Insured in all real and personal property owned, used, leased or intended for use by the Insured or in which the Insured may have an insurable interest, or for which the Insured may be responsible for the insurance, or real or personal property hereinafter constructed, erected, installed, or acquired including while in course of construction, erection, installation, and assembly, and also including Improvements and Betterments (collectively "Covered Property.") In the event of loss or damage, this Company agrees to accept and consider the Insured as sole and unconditional owner of Improvements and Betterments, notwithstanding any contract or lease to the contrary. This Policy is extended to include:

- a) At the option of the Insured, the interest of the Insured in the real and personal property of others in the Insured's care, custody, or control and the Insured's liability imposed by law or assumed by written contract for such property, including the cost to defend any allegations of liability for insured physical loss or damage to such property, but the Company may without prejudice negotiate and settle any claim or suit as the Company deems expedient.
- b) At the option of the Insured, personal property of the Insured's officials and employees while on the Covered Property of the Insured.
- c) Contractors' and/or subcontractors' (of any tier) and/or vendors' interests in Covered Property to the extent of the Insured's liability imposed by law or assumed by contracts, whether written or oral.
- d) At the option of the Insured, the interest of the Insured's customers in property sold by the Insured under conditional sale, trust agreement, installment plan or other deferred payment plan including property, that is leased to customers under a lease/purchase agreement.
- e) Real and personal property of others that, prior to the loss or damage, the Insured has agreed to insure, including property not in the Insured's care, custody or control and at the Insured's option the interest of the owner of such property.
- f) Property while in the course of construction and/or during erection, assembly and/or installation on an already insured location but excluding golf courses while in the course of construction unless otherwise endorsed herein.
- g) Architects Fees and Engineering Fees with respect to Covered Property
- h) Automatic Acquisitions – It is understood and agreed that this Policy is automatically extended to cover additional property and interests as described in this Policy and the existing Loss Payee Endorsements, which may be acquired or otherwise become at the risk of the Insured during the Term of this Policy, within the Territory of the Policy, subject to details of said property and interest with values to be provided to Underwriters for their consideration not later than 90 days from the said additional property and/or interests have become at the risk of the Insured, this Policy providing coverage automatically for such period of time. In the event reporting does not occur within 90 days, the Miscellaneous Unscheduled Location program sublimit shall apply.

The terms, conditions, and pricing of all reported acquisitions greater than USD10,000,000 are to be established as per the Leader Clause – New Acquisitions/Deletions Endorsement #8.

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- i) Guest Property – This Policy covers Personal Property of registered guests and other patrons and customers of the Insured resort, while on Covered Property, provided such Personal Property is not otherwise excluded by this Policy.

- j) Other Land Improvements - Defined as any alteration of the natural condition of the land by grading, excavating, landscaping, the establishment of earthen dikes or dams, as well as additions to land such as patios, retaining walls not affixed to a building, pavements, roadways, parking lots, appurtenant lighting fixtures and signage, fencing, bridges, ponds, stabilization vegetation, or similar works; including costs of grading, excavation, landfill, earth moving expenses, and/or costs of soil, stone, and/or other materials needed to support such reclamation, restoration, replacement, or repair, and including demolition and increased cost of construction. Buildings, structures, clubhouses, out buildings, maintenance buildings, equipment, and other similar structures are not considered Other Land Improvements but are real and/or personal property otherwise insured hereunder.

Beach Improvements are not considered Other Land Improvements and are otherwise insured hereunder.

Landscaping, such as trees, lawns, or plants, and golf courses are not considered Other Land Improvements, and are otherwise insured hereunder.

**9. OFF-PREMISES POWER**

This Policy, subject to all its provisions and without increasing the limit of said Policy, also insures against damage and/or loss, and/or Business Interruption due to damage or loss by the perils insured against, of any off premises utility, power station, substations, transformer or switching or pumping station, telecommunications, voice, data, video, and other utility and appurtenant equipment including, but not limited to, off premises poles, towers, transmission or distribution lines and reservoirs, furnishing electricity, steam, water, power or gas (collectively, "Off Premises Power") to Covered Property.

It is further understood and agreed that this Policy, subject to all its provisions and without increasing the limit of said Policy, also insures against damage and/or loss, and/or Business Interruption due to damage or loss by an Accidental Occurrence as defined herein. Coverage under this section shall be limited to USD 250,000 per Occurrence, not to exceed 30 consecutive days.

Coverage will apply when the Period of Service Interruption is in excess of the time shown as the waiting period as shown above. "Period of Service Interruption" shall mean the period starting with the time when an interruption of specific services occurs and ending when with due diligence and dispatch the service could be wholly restored.

This Policy does not cover loss resulting from any Business Interruption as a result of interruptions involving a satellite/s.

**10. PROPERTY EXCLUDED**

This Policy does not cover loss or damage to:

- a) Currency, money, notes, securities, gold bullion, evidence of debt, except Accounts Receivable as defined in the Policy; bills, notes or securities except as otherwise defined in this Policy.
- b) Land, except this exclusion does not apply to Other Land Improvements as defined and insured under the Property Insured section of this Policy, nor as respects the coverage as insured under the Pollutant and Contaminant Clean Up and Removal Clause of this Policy.
- c) Water, except as insured under the Pollutant and Contaminant Clean Up and Removal Clause, or when contained in any form of piping system, processing system or holding tank



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or used in the manufacturing process. This exclusion shall also not apply to Clauses 20. b and 20. f.

- d) Live animals not used for research, unless otherwise endorsed hereon.
- e) Growing crops and standing timber to be used for industrial processes unless otherwise endorsed hereon.
- f) Aircraft, watercraft over forty feet only while waterborne, and motor vehicles licensed for highway use, except this exclusion shall not apply to contractor's equipment, property that constitutes stock or is on exhibit or being repaired, nor barges or vessels while permanently moored, nor gaming or other equipment or property of the Insured while located thereon. Motor vehicles of guests and the contents therein are specifically excluded.
- g) Export shipments after loading on board an overseas vessel or watercraft or after ocean marine insurance attaches, whichever occurs first; and import shipments prior to discharge from the overseas vessel or watercraft or until the ocean marine insurance terminates, whichever occurs last.
- h) Waterborne shipments via the Panama Canal and waterborne shipments to and from Alaska, Hawaii, Puerto Rico and the Virgin Islands.
- i) Plants, Trees, Shrubs and Lawns that are part of a golf course when Golf Course coverage is excluded.
- j) Furs.
- k) Jewelry, precious metals, and precious stones.
- l) Underground mining.
- m) Transmission and distribution lines of every type and description; except when located on the Covered Property or within one (1) mile thereof.
- n) Offshore oil rigs, platforms and property contained therein or thereon.
- o) Property within international waters.

# 11. PROPERTY VALUATION

The basis of loss adjustment shall be as follows:

- a) On buildings and structures, at the replacement cost new with materials of like kind and quality; if not replaced, then at the actual cash value.
- b) On machinery, equipment, furniture, fixtures and Improvements and Betterments at the replacement cost new with materials of like kind and quality; if not replaced, then at the actual cash value.
- c) Valuable Papers & Records/Electronic Data Processing Media: the cost to repair or replace the property with other of like kind and quality including the cost of labor, service or supplies consumed in reconstructing, reproducing, recreating, transcribing or copying information; or, if not so replaced, the value blank.
- d) Raw materials and supplies: the replacement cost for new.
- e) Stock in process: the value of raw materials and labor expended plus the proper proportion of overhead charges.
- f) Finished stock and other merchandise for sale: The regular cash selling price less all discounts and charges to which such property would have been subject had no loss occurred.
- g) Electronic Data Processing Equipment, production machinery and all other equipment: the cost to repair or replace new with like kind and quality, or at the Insured's option, the Insured may elect to replace such equipment with equipment having technological

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advances and/or representing an improvement in function and/or forming part of a program of system enhancement and/or more consistent with the Insured's technology strategy (without any reduction or offset for betterment) provided that such replacement cost can be accomplished without increasing the Company's liability. The Company shall be allowed to dispose of, as salvage, any non-proprietary property deemed unusable by the Insured.

- h) Fine Arts owned by the Insured, or within its care, custody or control for which they are legally liable to insure, at the cost of reasonably restoring the property to its condition immediately prior to the loss, or in the event that the property cannot be restored at the appraised value prior to the loss. In absence of such appraisal, at the market value at the time of loss.

- i) With respect to properties that qualify for historical landmark status, as designated by the Local Register, National Register, National Landmark Register of Historical Places, or other local equivalent valuation shall be at Reproduction Cost, but not to exceed the actual costs that would have been incurred to comply with historical landmark status requirements. Reproduction Cost shall mean the cost to reproduce the damaged building or specific building features to the same design, decorative style and dimensions as existed at the time of loss, using same materials with respect to kind and quality. Substitution of materials and architectural features with those of like kind and quality will be required only if the same materials and features cannot be reasonably obtained.

With respect to properties that do not qualify for historical landmark status, valuation for repair, rebuild or replacement shall be based on the quality of the Covered Property's materials, workmanship and design, but not to exceed the cost to restore the Covered Property to the condition that existed prior to the loss using materials, workmanship and design of like kind and quality without deduction for depreciation, obsolescence, or condition.

- j) Plants, Trees, Shrubs and Lawns, determined to be a total loss, whether located on or off a golf course, at the replacement cost of comparable and like kind and quality available nursery stock for Plants, Trees, Shrubs and Lawns; and for Plants, Trees, Shrubs and Lawns determined to be damaged but not a total loss, this company shall be liable for reasonable future care and maintenance of damaged plants, trees, shrubs and lawns for a period not to exceed one year from the date of loss. Care and maintenance will include but not be limited to pruning, trimming, fertilization and insect control.

- k) Property of Others and property leased by the Insured, or for which the Insured has a legal obligation to insure, at the Insured's option either:

- i) the replacement cost new with materials of like kind and quality or;
- ii) the amount stipulated in the lease agreement or;
- iii) the Insured's contractual or legal liability

- l) It is understood that following an insured loss the Insured may use its personnel to assist in the repair, replacement, and/or restoration of the lost or damaged property; and/or to make temporary repairs, and/or to expedite the repair or replacement of the damaged property, and/or to remove debris, and/or demolition, and/or clean up.

It is expressly agreed that in the event of any covered loss under this Policy, the Company shall reimburse the Insured for such expenses incurred by the Insured in utilizing its employees, both hourly and/or salaried, in the performance of the above said damage related repair expenses.

Such charges shall be calculated in accordance with the Insured's current payroll and/or salary payment practices, including, any payroll related expenses. Any amounts paid hereunder in respect to the application of this provision shall be deducted from the amount that may otherwise be payable under the Business Interruption and/or Extra Expense coverage of this Policy.



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- m) Other Covered Property not otherwise provided for: at replacement cost new with materials of like kind and quality without deduction for depreciation. If the Covered Property is not repaired, rebuilt or replaced with similar property on the same or another site, the Company shall not be liable for more than the actual cash value of the Covered Property damaged or destroyed.
- n) Other Land Improvements at the actual costs incurred to repair, replace, reclaim and/or restore Other Land Improvements, including, grading, excavation, landfill, earth moving expenses, and/or costs of soil, stone, and/or other materials needed to support such reclamation, restoration, replacement, or repair, and including demolition and increased cost of construction to exceed stated values on file with Resort Hotel Association, Inc. at the time of loss.
- o) Beach Improvements, other than plants, trees, shrubs, and lawns, at the actual costs incurred to reclaim, restore, replace, and/or repair such Beach Improvements, including grading excavating, landfill, earth moving expenses, and/or costs of soil, stone, and/or other materials needed to support such reclamation, restoration, replacement, or repair, and including demolition and increased cost of construction.
- p) Wine inventory: The lesser of replacement cost or selling price at time of loss. If selling price at time of loss is not documented, then Fair Market Value above any applicable deductible, meaning the dollar amount, at the time of the covered loss, that it would cost to replace the property (wine) with another similar age, quality, origin, appearance and condition within a reasonable length of time in an appropriate and relevant market.

It is understood and agreed that as respects replacement cost new, the Insured shall have the option of replacing equipment having technological advantages and/or representing an improvement in function and/or forming part of program of system enhancement provided that such replacement can be accomplished without increasing the Company's liability.

The Company's liability for loss or damage on a replacement cost basis shall not exceed the lesser of the replacement cost new of the property or any part thereof identical with such property intended for the same occupancy and use, including normal and customary profit and overhead even if the work is performed by the Insured; or the amount actually and necessarily expended in repairing or replacing said property or any part thereof including normal and customary profit and overhead even if the work is performed by the Insured.

As respects 11.a., 11.b., 11g, 11.j., 11.m, 11.n. and 11.o., the Insured may elect not to repair or replace such damaged Covered Property, however, if loss settlement proceeds are expended on other capital expenditures related to the business activities of the Insured within two years from the date of loss, the lesser of the repair or replacement cost of such Covered Property will be paid. As a condition of collecting under this Clause, such expenditure must be unplanned as of the date of loss. This clause does not extend to Demolition and Increased Cost of Construction. Loss settlement on a replacement cost basis shall include Architect and Engineering Fees to the extent incurred as a result of a loss that would be payable under this Policy.

Permission is granted for the Insured to replace the property with similar property at the same or another site within the territorial limits of the Policy, but recovery is limited to what it would cost to replace on same site.

## 12. BUSINESS INTERRUPTION

- a) Business Interruption is defined as loss during the Period of Restoration due to the necessary interruption of business conducted by the Insured, including all interdependencies between or among companies owned or operated by the Insured resulting from direct physical loss or damage insured herein and occurring during the Term of this Policy to Covered Property.

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- b) Such loss shall be adjusted on the basis of the actual loss sustained by the Insured, consisting of the net profit that is prevented from being earned;
- and
- c) all charges and other expenses to the extent that these must necessarily continue during the interruption of business, but only to the extent to which such charges and expenses would have been incurred had no loss occurred.
- d) In determining the amount of net profit, all charges, and other expenses hereunder for the purposes of ascertaining the amount of the actual loss sustained, due consideration shall be given to the experience of the business before the date of the loss or damage and to the probable experience hereinafter had no loss occurred.
- e) In the event of insured direct physical loss or damage to Covered Property that results in an interruption of research and development activities, which in themselves would not have produced income during the recovery period, this Policy shall insure the actual loss sustained of the continuing charges and expenses, including Ordinary Payroll (unless otherwise excluded on the Loss Payee Endorsement) and other payroll, directly attributable to such research and development activities.

**13. EXTRA EXPENSE**

This Policy shall cover Extra Expense, incurred by the Insured and caused by direct physical loss, damage, or destruction from any of the perils covered herein to real or personal property as covered herein. The term "Extra Expense" wherever used in this Policy, is defined as the reasonable and necessary expense incurred by the Insured that is excess (if any) of the total cost(s) incurred during the Period of Restoration, chargeable to the operation of the Insured's business, over and above the total cost(s) that would have normally have been incurred to conduct the business during the same period had no loss or damage occurred, including Soft Costs.

- a) In the event of direct physical loss, damage, or destruction to Covered Property caused by any of the perils covered herein which results in an interruption of research and development activities, this Policy shall cover the actual loss sustained of the Extra Expenses directly attributable to the interruption of such research and development activities.
- b) As soon as practicable, the Insured shall resume normal operations of the business and shall dispense with such Extra Expense.

**14. EXPENSE TO REDUCE LOSS**

This Policy is extended to cover expenses as are necessarily incurred for the purpose of reducing any loss under this Policy, but not to exceed the amount by which the loss covered by the Policy is thereby reduced.

**15. SOFT COSTS**

This Policy shall cover necessary Soft Costs incurred by the Insured caused by direct physical loss, damage, or destruction to Covered Property by any of the perils covered herein during the Term of this Policy.

- a) Soft Costs is defined as those expenses related to the delay of completion of a project over and above those costs that would have been incurred to complete the project if no loss had occurred, including but not limited to additional:
  - i) interest costs on money used to finance construction or repair;
  - ii) real estate and property taxes incurred;

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- iii) legal and accounting fees; and
  - iv) advertising and promotional expenses, which become necessary as a result of an insured loss.
- b) The Company shall pay Soft Costs incurred from the date that the building, structure or improvement would have been completed had no physical damage occurred until such time that it is completed. As soon as practicable after any loss, the Insured shall utilize every available means to reduce the amount of loss including:
- i) partial or complete resumption of construction, business or operations;
  - ii) making use of materials, equipment, supplies, or other property at the Insured's Covered Property or elsewhere; or
  - iii) making use of substitute facilities or services where practical;
- such reduction will be taken into account in arriving at the amount of such loss.
- c) This Policy insures the interest expense necessarily incurred by the Insured in effecting repairs to the damaged Covered Property, from the date of the Insured's payment to others until payment of the loss by the Company. The prime-lending rate of the Insured's bank will apply.

**16. RENTAL VALUE/RENTAL INCOME**

This Policy provides coverage for loss of Rental Income and/or loss of Rental Value of the Insured caused by direct physical loss or damage insured herein occurring during the term of this Policy to Covered Property rented, leased or occupied by the Insured and/or rented or leased by the Insured to others.

Rental Income means the following:

- a. the total anticipated gross rental income from tenant(s) of the Insured's building(s) and structure(s);
- b. the amount of all charges assumed by tenant(s) except those charges that do not continue, and would otherwise be obligations of the Insured;
- c. the fair rental reasonably expected from unrented portions of such property and the fair rental for that portion occupied by the Insured.

Rental Value means the following:

- a. Rental Income Insurance in those situations where the Insured is required under a lease or rental agreement to maintain insurance for loss of rental income on behalf of any landlord.
- b. Rental expenses incurred by the Insured in excess of the expenses that would have been incurred had a leased or rented Covered Property not been damaged or destroyed by perils insured hereunder; such coverage will apply for all additional expenses incurred during the period of untenability or if the lease cannot be terminated until its expiration.

Experience of the Business:

- a. In determining the amount of Rental Value and/or Rental Income covered hereunder for the purposes of ascertaining the amount of loss sustained, due consideration shall be given to the rental experience before the date

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of damage or destruction and to the probable experience hereinafter had no loss occurred to the Covered Property.

- b. With respect to alterations, additions, and property while in the course of construction, erection, installation, or assembly, due consideration shall be given to the available rental experience of the business after completion of the construction, erection, installation, or assembly.

Period of Restoration:

The Company shall pay only for loss of Rental Income or loss of Rental Value occurring during the Period of Restoration.

#### 17. ROYALTIES

This Policy shall cover the loss of income to the Insured under royalty, licensing fees, or commission agreements between the Insured and another party that is not realizable due to direct physical loss, damage or destruction by any of the perils covered herein during the term of this Policy to property of the other party, which is of a type not excluded by this Policy.

- a. Any loss hereunder shall be adjusted on the basis of the actual loss sustained to such income referred to in the paragraph immediately above, which would have been earned had no loss occurred.
- b. Resumption of Operations: The Insured shall influence, to the extent possible, the party with whom the agreement described above has been made to use any other machinery, supplies or locations in order to resume business so as to reduce the amount of loss hereunder and the Insured shall cooperate with that party in every way to effect this, but not financially, unless such expenditures shall be authorized by this Company.
- c. Experience of the Business: In determining the amount of income derived from the agreements(s) described in the first paragraph of this Clause above for the purposes of ascertaining the amount of loss sustained, due consideration shall be given to the amount of income derived from such agreement(s) before the date of damage or destruction and to the probable amount of income hereinafter had no loss occurred.

#### 18. LEASEHOLD INTEREST

- a. This Policy provides coverage for the leasehold interest of the Insured.

The Company will pay its pro rata proportion from the date of loss to expiration date of the lease (to be paid without discount) on the Insured's interest in:

- i. the amount of bonus paid by the Insured for the acquisition of the lease not recoverable under the terms of the lease;
- ii. improvements and betterments to real property that are not covered under any other section of this Policy;
- iii. the amount of advance rental paid by the Insured and not recoverable under the terms of the lease;

when property is rendered wholly or partially un-tenantable by any covered loss during the term of this Policy and the lease is canceled by the party not the Named Insured or Loss Payee under this Policy in accordance with the conditions of the lease or by statutory requirements of the appropriate jurisdiction in which the damaged or destroyed property is located; and

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b. The Interest of the Insured as Lessee or The Interest of the Insured as Lessor, when property is rendered wholly or partially un-tenantable by any covered loss during the term of this Policy and the lease is canceled by the party not the Named Insured or Loss Payee by this Policy in accordance with the conditions of the lease or by statutory requirements of the appropriate jurisdiction in which the damaged or destroyed property is located.

The Interest of the Insured as Lessee or The Interest of the Insured as Lessor as referred to herein shall be paid for the first three months succeeding the date of the loss and the Net Lease Interest shall be paid for the remaining months of the unexpired lease.

c. Definitions:

The following terms, wherever used in this section shall mean:

(i) The Interest of the Insured as Lessee is defined as:

- A. the excess of the rental value of similar premises over the actual rental payable by the lessee (including any maintenance or operating charges paid by the lessee) during the unexpired term of the lease; and
- B. The rental income earned by the Insured from sublease agreements, to the extent not covered under any other section of this Policy, over and above the rental expenses specified in the lease between the Insured and the lessor.

(ii) The Interest of the Insured as Lessor is defined as the difference between the rents payable to the lessor under the terms of the lease in effect at the time of loss and the actual rent collectible by the lessor during the unexpired term of the lease provided the lease is canceled by the lessee, to the extent not covered under any other section of this Policy.

(iii) Net Lease Interest is defined as that sum, which placed at 6% interest compounded annually will be equivalent to The Interest of the Insured as Lessee or The Interest of the Insured as Lessor.

d. It is understood and agreed that in the event that an insured physical loss or damage results in both loss of Rental Income and/or Rental Value and loss of The Interest of the Insured as Lessor, the provisions and limit of liability of the Rental Income and Rental Value coverage will be applied first in accordance with the applicable period of recovery. The coverage provided by the Leasehold Interest provisions and limit of liability shall be applied and commence at the cessation of the Rental Income and Rental Value coverage and continue until the expiration of the lease.

This Company shall not be liable for any increase of loss which may be occasioned by the suspension, lapse or cancellation of any license or by the Named Insured or Loss Payee exercising any option to cancel the lease. Furthermore, coverage is conditioned upon the Named Insured or Loss Payee's use of due diligence including all things reasonably practicable to diminish loss under this Clause and under the Rental Value and Rental Income Clause.

19. **PERIOD OF RESTORATION**

The "Period of Restoration" is defined as the length of time for which loss may be claimed, and shall commence with the date of such loss, damage or event not excluded under the Policy and

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shall not be limited by the date of expiration of this Policy, subject to the following provisions:

- a) The Period of Restoration shall not exceed such length of time as would be required with the exercise of due diligence and dispatch to rebuild, repair, or replace such part of the property as has been destroyed, damaged.
- b) With respect to alterations, additions, and property while in the course of construction, erection, installation, or assembly, the Period of Restoration shall be calculated from the date that business operations would have begun had no damage or destruction occurred.
- c) The Period of Restoration shall include such additional length of time to restore the Insured's business to the condition that would have existed had no loss occurred, commencing with the later of the following dates and terminating no more than 365 days from the said later commencement date:
  - i. the date on which the liability of the Company for loss or damage would otherwise terminate; or
  - ii. the date on which repair, replacement, or rebuilding of such part of the property as has been damaged is actually completed, and the insured has resumed normal operations.
- d) Delayed Opening - with respect to alterations, additions, or property while in the course of construction, erection, installation, or assembly, due consideration shall be given to the level of production or level of business operations that would reasonably have been achieved after construction and start-up would have been completed had no loss or damage occurred.

## 20. EXTENSIONS OF BUSINESS INTERRUPTION COVERAGE

This Policy, subject to all its provisions and without increasing the amount of said Policy, insures against loss, Business Interruption, Extra Expense, Expense to Reduce Loss, Soft Costs, Rental Value, Rental Income, Royalties and Leasehold Interest (collectively, "Contingent Business Interruption") resulting from the perils insured against, to the following:

- a) Property of a type not excluded that directly or indirectly prevents a supplier of goods and/or services to the Insured from rendering their goods and/or services, or property that prevents a receiver of goods and/or services from receiving the Insured's goods and/or services; such supplier or receiver shall not be an Insured under this Policy. Coverage shall be limited to Tier 1 Suppliers or Customers (a supplier or customer with a direct contractual relationship with the insured) & Tier 2 Suppliers or Customers (a supplier or customer with a direct contractual relationship with a Tier 1 supplier or customer). Coverage includes loss or damage to real and personal property at Attraction Properties not owned or operated by the Insured, located in the same vicinity as the Covered Property and which attracts business to that vicinity.
- b) Dams, reservoirs, wells, or equipment connected therewith when water, used as a raw material or used for power or for other manufacturing or service purposes, stored behind such dams or reservoirs is released from storage and causes an interruption of business as a result of lack of water supply from such sources.
- c) The actual loss sustained by the Insured during a period of time not to exceed 60 days as a result of a peril insured against occurring within 5 miles of Insured's location, where access to the Insured's real or personal property is prevented by order of civil or military authority (together "Civil Authority"). Provided that such order is a direct result of physical damage of the type of property insured by this Policy, irrespective of whether the property of the Insured shall have been damaged.
- d) The actual loss sustained by the Insured during a period of time not to exceed 60 days, as a direct result of a peril insured against occurring within 5 miles of Insured's location, where ingress to or egress from the Insured's real or personal property is thereby physically prevented ("Ingress/Egress"). Provided that such prevention is a direct result of physical



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damage of the type of property insured by this Policy, irrespective of whether the property of the Insured shall have been damaged.

- e) Property, facilities or piping systems, that prevent the Insured from discharging its outgoing effluence to a waste treatment, plant.
- f) Use of Water - This Policy is extended to insure loss sustained to an insured location during the period of time when, as a result of physical loss or damage by a peril not excluded by this Policy, recreational use of water from lakes, rivers, bays, lagoons, sea or ocean waters within 3 miles of the shoreline or other bodies of water is impaired.
- g) Guest Relocation Expenses - This Policy also covers the cost to the Insured for goodwill expenditures made by the Insured to temporarily relocate hotel guests in other local facilities following a covered loss at an insured location by an insured peril. Such costs shall include the cost of rooms, local transportation, and other related services, but will not include the cost of any food, beverages, or medical services. These expenditures shall be payable whether or not guests are relocated to other properties owned, managed, and/or operated by the Insured or subsidiary or affiliated companies or corporations.
- h) Loss of Attraction - This Policy is extended to insure loss as insured hereunder, including Clean Up and Remediation, when there is an interruption or interference with the business of the Insured as a consequence of:
  - 1. Infectious or contagious disease (excluding Coronavirus 2019 COVID-19) manifested by any person while on the Covered Property of the Insured which results in the total or partial closure of the Covered Property at the direction of The National Center for Disease Control and/or the applicable state, city or municipal department of public health;
  - 2. Murder or suicide occurring at the Covered Property of the Insured;
  - 3. Injury or illness sustained by any person arising from or traceable to foreign or injurious matter in food and drink provided on the Covered Property of the Insured or the threat thereof;
  - 4. Closing of the whole or part of the Covered Property of the Insured by order of a public authority consequent upon the existence or threat of hazardous conditions either actual or suspected at the Covered Property of the Insured.

This section extends only to the coverages described in Clauses 12, 13, 14, 15, 16, 17 and 18. However, if a program sublimit exists, these coverages do not increase the sublimit.

Contingent Business Interruption and Attraction Properties referenced in Section 20.a) will be considered as insured property for application of the following Business Interruption Extensions:

Service Interruption/Off Premises Power  
 Civil or Military Authority  
 Ingress/Egress  
 Protection and Preservation of Property-Property Damage  
 Use of Water  
 Loss of Attraction

## 21. TRANSIT

This Policy including all of its Coverages, including, but not limited to Business Interruption, Extra Expense, , shall cover property in transit, and this Policy attaches and covers shipments within and between the territorial limits of this Policy, including the coastal waters thereof, by any means of conveyance, from the time the property is moved for purpose of loading and continuously thereafter while awaiting and during loading and unloading and in temporary storage, including temporary storage on any conveyance intended for use for any outbound or used for inbound

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shipment, including during deviation and delay, until safely delivered and accepted at place of final destination. This insurance is extended to cover loss or damage to property:

- a) sold and shipped by the Insured under terms of Free on Board, point of origin or other terms usually regarded as terminating the shipper's responsibility short of points of delivery;
- b) arising out of any unauthorized person(s) representing themselves to be the proper party(ies) to receive goods for shipment or to accept goods for delivery;
- c) occasioned by the acceptance by the Insured, by its agents, or by its customers of fraudulent bills of lading, shipping and delivery orders, or similar documents;
- d) at the Insured's option, property that is incoming to the Insured.
- e) of others that the Insured has agreed prior to the loss to insure during the course of delivery including but not limited to:
  - ii. when shipped by the Insured's contract service provider or by the Insured's contract manufacturer to the Insured or to the Insured's customer
  - iii. or when shipped by the Insured's customer to the Insured or to the Insured's contract service provider or to the Insured's contract manufacturer.

The Insured may waive right(s) of recovery against private, contract, and common carriers and accept bills of lading or receipts from carriers, bailees, warehousemen, or processors limiting or releasing their liability, but this transit insurance shall not inure to the benefit of any carrier, bailee, warehouseman, or processor. With respect to shipments described under subparagraphs (a) and (d) above, this Company agrees to waive its rights of subrogation against shippers and consignees at the option of the Insured.

- i. The Insured is not to be prejudiced by any agreements exempting lightermen from liability.
- ii. Seaworthiness of any vessel or watercraft, and airworthiness of any aircraft are admitted between this Company and the Insured.

**22. ACCOUNTS RECEIVABLE**

Defined as:

- a) all sums due the Insured from customers, provided the Insured is unable to effect collection thereof as the direct result of direct physical loss of or damage to records of accounts receivable;
- b) all sums due the Insured from factoring transactions, when the property of the debtor has been lost or damaged by loss or damage insured by this Policy and the Insured has been unable to effect collection thereof;
- c) interest charges on any loan to offset impaired collections pending repayment of such sums made uncollectible by such loss or damage;
- d) collection expense in excess of normal collection cost and made necessary because of such loss or damage;
- e) other expenses, when reasonably incurred by the Insured in reestablishing records of accounts receivable following such loss or damage.

For the purpose of this insurance, credit card company charge media shall be deemed to represent sums due the Insured from customers, until such charge media is delivered to the credit card company.

When there is proof that a loss of records of accounts receivable has occurred but the Insured cannot more accurately establish the total amount of accounts receivable outstanding as of the date of such loss, such amount shall be computed as follows:



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- f) the monthly average of accounts receivable during the last available twelve months shall be adjusted in accordance with the percentage increase or decrease in the twelve months average of monthly gross revenues which may have occurred in the interim.
- g) the monthly amount of accounts receivable thus established shall be further adjusted in accordance with any demonstrable variance from the average for the particular month in which the loss occurred, due consideration also being given to the normal fluctuations in the amount of accounts receivable within the fiscal month involved.

There shall be deducted from the total amount of accounts receivable, however established, the amount of such accounts evidenced by records not lost or damaged, or otherwise established or collected by the Insured, and an amount to allow for probable bad debts which would normally have been uncollectible by the Insured.

**23. PERILS INSURED AGAINST**

This Policy insures against all risks of direct physical loss of or damage to Covered Property during the period of insurance including general average, salvage, and all other charges on shipments covered hereunder, except as hereinafter excluded.

**24. BOILER & MACHINERY**

This Policy insures loss as covered elsewhere in this Policy to insured property as a result of an Accident to an Object subject to the following definitions:

- a) "Object" means any boiler, fired or unfired pressure vessel, refrigerating or air-conditioning system, piping and its accessory equipment, and any mechanical or electrical machine or apparatus that:
  - i) Generates, transmits, or utilizes energy, including electronic communications, and data processing equipment; or
  - ii) During normal usage operates under vacuum or pressure, other than the weight of its contents.
- b) "Accident" means a sudden and accidental breakdown of an Object or a part thereof which manifests itself at the time of its Occurrence by physical damage that necessitates repair or replacement of the Object or part thereof.
- c) "Hazardous Substance" means the additional expense incurred for clean up, repair or replacement, or disposal of damaged, contaminated or polluted property as a result of an "Accident" which causes property to become damaged, contaminated or polluted by a substance declared hazardous to health by an authorized governmental agency. "Additional Expenses" means expenses incurred that would not have been incurred, had no substance hazardous to health been involved in the accident.

Suspension - Upon the discovery of a dangerous condition with respect to an Object, any representative of the Company may immediately suspend the insurance with respect to an Accident to said Object by written notice mailed or delivered to the Insured's location, to the Insured's Risk Management department and to Alliant Insurance Services, Inc.

**25. PERILS EXCLUDED**

This Policy does not insure loss or damage resulting directly or indirectly from any of the following: (Such loss or damage is excluded even if another peril or event contributed concurrently or in any sequence to cause the loss.)

- a) Infidelity or dishonesty of the Insured or of the Insured's employees. A willful act of malicious intent shall not be deemed to be an act of infidelity. This exclusion shall not apply to loss or damage resulting from the Insured voluntarily parting with title or possession of any property if induced to do so by any fraudulent trick, scheme, device or false pretense.

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- b) The cost of making good defective design, faulty material, or faulty workmanship, except, if direct physical loss or damage not excluded in this Policy ensues, then this Policy shall insure only the direct ensuing physical loss or damage.
- c) Normal or ordinary wear, tear, gradual deterioration, rust, corrosion, settling, cracking, erosion except if direct physical loss or damage not excluded in this Policy ensues, then this Policy shall insure only the direct ensuing physical loss or damage.
- d) Against inherent vice, or latent defect unless other direct physical loss or damage from a peril insured against herein ensues and then this Policy shall cover for direct ensuing physical loss or damage.
- e) Against nuclear reaction, nuclear radiation, or radioactive contamination, all whether controlled or uncontrolled, and whether such loss be direct or indirect, proximate, or remote; or be in whole or in part caused by, contributed to, or aggravated by the peril(s) insured against in this Policy; except if fire or sprinkler leakage ensues, liability is specifically assumed for direct physical loss by such ensuing peril but not including any loss due to nuclear reaction, nuclear radiation, or radioactive contamination. This Company shall be liable for physical loss or damage caused by sudden and accidental radioactive contamination including resultant radiation damage for each Occurrence from material used or stored or from processes conducted on Covered Property at the time of loss there is neither a nuclear reactor capable of sustaining nuclear fission in a self-supporting chain reaction nor any new or used nuclear fuel on the Covered Property;
- f) Against hostile or warlike action in time of peace or war, including action in hindering, combating, or defending against an actual, impending, or expected attack by any government or sovereign power (de jure or de facto) or by any authority maintaining or using military, naval, or air forces; or by military, naval, or air forces; or by any agent of any such government, power, authority, or forces ;
  - i. against any weapon employing atomic fission or fusion;
  - ii. against rebellion, revolution, civil war, usurped power, or action taken by governmental authority in hindering, combating, or defending against such Occurrence;
  - iii. against seizure or destruction by order of public authority, except destruction by order of public authority to prevent the spread of, or to otherwise contain, control or minimize loss, damage or destruction which occurs due to a peril insured against under this Policy;
  - iv. against risks of contraband or illegal trade;
  - v. against confiscation, nationalization and expropriation.
- g) Except as insured by the Pollutant and Contaminant Clean Up and Removal Clause, the Pollution, Contamination, Debris Removal Exclusion Endorsement, the Use of Water Clause, and/or the Loss of Attraction Clause of this Policy, loss or damage arising out of the dispersal, release or escape of contaminants or pollutants into or upon land, atmosphere or any water course or body of water, but not excluding resultant loss or damage from contaminants or pollutants to insured property, including land improvements and attraction properties as defined herein, caused by or resulting from physical loss or damage not otherwise excluded, including, but not limited to, Flood and Named Windstorm.
- h) Mysterious disappearance or loss or shortage disclosed on taking inventory.
- i) Insects, vermin, bacteria, fungi, virus, mold spores, wet or dry rot or other disease (except as provided in Clause 20. h for Loss of Attraction) unless direct physical loss or damage not otherwise excluded ensues, then this Policy shall insure only for the ensuing loss or damage.

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- j) Normal settling or shrinkage of walls, floors or ceilings unless direct physical loss or damage not otherwise excluded ensues and then this Policy shall insure only for the ensuing physical loss or damage.
- k) Dampness or dryness of atmosphere or extremes or changes of temperature unless direct physical loss or damage to buildings or equipment not otherwise excluded ensues and then this Policy shall cover for such ensuing physical loss or damage.
- l) Flood in Special Flood Hazard Areas as respects Miscellaneous Unscheduled Locations
- m) Named Windstorm coverage for all Miscellaneous Unscheduled Locations in the state of Florida
- n) Earth Movement coverage in the state of California, with the exception of Earth Movement and Earthquake Shock covered at Pebble Beach Company only.
- o) Contamination, shrinkage or change in color, flavor, texture, or finish.
- p) Indirect or remote loss.
- q) Insurrection.
- r) Against loss in Spain or Spanish Territories which fall under the regulation of the "Consortio de Compensacion de Seguros" ("Consortio") and are declared by the "Consortio" to be within the conditions of its coverage, but only to the extent of recovery there under. (Conditions of payment or delays in payment by the "Consortio" shall not abrogate this exclusion); nor against any event constituting a Calimidad Nacional.
- s) Against loss in France or French Territories which fall under French Law 82-600 of July 13, 1982 and are declared a disaster pursuant to said law by the French government in the "Official Journal" of the French Republic, but only to the extent of recovery there under. (Conditions of payment or delays in payment shall not abrogate this exclusion). Nor against all material damage and consequential loss arising as a result of all perils indemnifiable in terms of the scope of cover granted by GAREAT.
- t) Against loss or damage in Bundeslaender and Hansestaedte (states) of Schleswig-Holstein, Niedersachsen, Mecklenburg-Vorpommern, Bremen, and Hamburg in Germany caused by storm surge, as declared by the Federal German Office for Maritime Shipping and Hydrographics.
- u) Against loss or damage in South Africa caused directly or indirectly by or through or in consequence of any Occurrence for which a fund has been established in terms of the War Damage Insurance and Compensation Act, 1976 (No. 85 of 1976) but only to the extent of recovery thereunder.
- v) Against loss or damage caused by an act of terrorism, occurring in the United Kingdom and as declared by the Association of British Companies' Pool Re.
- w) Against loss or damage in the Netherlands caused by Flood or the damage, destruction or overflowing of dams, dikes, floodgates and other similar ways, whether or not the flood resulting is due to a peril covered under this Policy.
- x) Notwithstanding any provision to the contrary within this Policy or any endorsement thereto it is agreed that this Policy excludes loss, damage, cost or expense of whatsoever nature directly or indirectly caused by, resulting from or in connection with any act of terrorism regardless of any other cause or event contributing concurrently or in any other sequence to the loss.

For the purpose of this Policy, an act of terrorism means an act, including but not limited to the use of force or violence and/or the threat thereof, of any person or group(s) of persons, whether

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acting alone or on behalf of or in connection with any organization(s) or government(s), committed for political, religious, ideological or similar purposes including the intention to influence any government and/or to put the public, or any section of the public, in fear.

This Policy also excludes loss, damage, cost or expense of whatsoever nature directly or indirectly caused by, resulting from or in connection with any action taken in controlling, preventing, suppressing or in any way relating to any act of terrorism.

If the Company determines that by reason of this exclusion, any loss, damage, cost or expense is not insured by this insurance, the burden of proving the contrary shall be upon the Insured.

In the event any portion of this endorsement is found to be invalid or unenforceable, the remainder shall remain in full force and effect.

Exclusions b, c, d, g, and i shall not apply to property in Transit.

## 26. DEFINITIONS

- a) "Earthquake Shock"  
the specific cracking, rupturing, shifting, crushing, breaking or toppling of property insured hereunder, resulting from a shock, shaking, tremor, and/or convulsion of the earth's surface caused by natural seismic forces.
- b) "Earth Movement"  
any natural or man-made Earth Movement, including Earthquake Shock, landslides, submarine landslides, avalanches, subsidence, sinkhole collapse, mud flow, rock fall, volcano, lava flow, or any other similar earth movement, sinking, rising or shifting of the ground.  
It is understood and agreed that loss caused by or loss arising from Earth Movement shall be restricted exclusively to the actual, specific cracking, rupturing, shifting, crushing, breaking or toppling of property and shall not include ensuing loss or damage, if any, resulting from other loss or damage insured. Such ensuing loss shall be construed to have been of the same Occurrence, but of a different proximate cause.
- c) The term "Flood" as used in this Policy shall mean loss or damage caused by or resulting from waves, tide or tidal water (other than caused by Named Windstorm within defined Tier 1 Counties hereunder), tsunami, rapid accumulation of surface waters, or the rising (including overflowing or breaking of boundaries) of lakes, reservoirs, rivers, streams or other bodies of water. It is understood and agreed that, whenever used in this Policy, the term "loss caused by" or "loss arising from" flood shall not include ensuing loss or damage, if any resulting from other loss or damage insured. Such ensuing loss shall be construed to have been of the same Occurrence, but of a different proximate cause.
- d) "Named Windstorm" is defined as the direct action of wind which is named by the National Weather Bureau, or National Hurricane Center as a numbered catastrophe. This definition shall include wind driven rain, storm surge and Flood when associated with or occurring in conjunction with a Named Windstorm, only when occurring within defined Tier 1 Counties hereunder.
- e) The term "Occurrence" is defined as follows:  
Loss, or a series of losses or several losses that are attributable directly or indirectly to one cause or disaster, or to one series of similar causes or disasters, arising from a single event. All such losses shall be combined, and the total amount of such losses shall be treated as one Occurrence irrespective of the period of time or area over which such losses occur.

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When the term Occurrence applies to Named Windstorms, it shall be defined as the sum total of all losses arising out of or caused by the same atmospheric disturbance during any period of 72 consecutive hours. Resort Hotel Association, Inc. shall have the right to elect the moment from which the 72-hour period shall be deemed to have commenced, provided that no elected period of 72 hours shall commence within the period of any previous Occurrence.

When the term Occurrence applies to Earth Movement, it shall be defined as the sum total of all the Insured's losses sustained during any period of 72 consecutive hours by reason of one Earth Movement or a series of Earth Movements. Resort Hotel Association, Inc. may elect the moment from which the 72-hour period shall be deemed to have commenced, provided that no elected period of 72 hours shall commence within the period of any previous Occurrence.

When the term Occurrence applies to Flood, it shall be defined as the sum total of all losses sustained by reason of one Flood or a series of Floods.

When the term Occurrence applies to theft, the sum total of all losses sustained by the Insured and covered herein resulting from one or more fraudulent or dishonest acts committed by a person(s) acting alone or in collusion with others shall constitute one Occurrence.

- f) "Raw Stock" - Materials and supplies in the state in which the Insured receives it for conversion by the Insured into Finished Stock, including supplies consumed in such conversion or in the service rendered by the Insured.
- g) "Stock in Process" - Raw stock which has undergone any aging, seasoning, mechanical or other process of manufacture by on behalf of the Insured but which has not become Finished Stock.
- h) "Finished Stock" - Stock which in the ordinary course of the Insured's business is ready for packing, shipment or sale.
- i) "Fire Brigade Charges/Fire Extinguishing Materials and Expenses" - Firefighting and/or containment charges and/or fire department service charges and other extinguishing expenses.
- j) "Fraudulent or Dishonest Acts" - Fraudulent or dishonest acts committed by the Insured or the Insured's employees with the manifest intent to cause the Insured to sustain such loss; and obtain financial benefit for the Insured, Insured's employee, or for any other person or organization intended by the Insured or the employee to receive such benefit for such fraudulent or dishonest act or acts.
- k) "Merchandise" - Goods kept for sale by the Insured, which are not the product of manufacturing operations conducted by the Insured.
- l) "Normal" - The condition that would have existed had no loss occurred.
- m) "Net Lease Interest" - That sum which placed at 6% interest compounded annually would equal the Lease Interest (less any amounts otherwise payable hereunder).
- n) "Ordinary Payroll" - Ordinary Payroll is the entire payroll expense for all employees of the Insured except officers, executives, employees under contract, and other critical employees.
- o) "Plants, Trees, Shrubs and Lawns" (other than those part of a Golf Course) - Plants, trees, shrubs and lawns located in planted, cultivated and/or maintained areas.
- p) "Improvements and Betterments" - Fixtures, alterations, installations or additions comprising a part of the described building and made or acquired at the expense of the Insured, but which are not legally subject to removal by the Insured.
- q) Other Land Improvements – Defined as any alteration of the natural condition of the land by grading, excavating, landscaping, the establishment of earthen dikes or dams, as well as additions to land such as patios, retaining walls not affixed to a building, pavements, roadways, parking lots, appurtenant lighting fixtures and signage, fencing, bridges, ponds, stabilization vegetation, or similar works; including costs of grading, excavation, landfill, earth moving expenses, and/or costs of soil, stone, and/or other materials needed to support such reclamation, restoration, replacement, or repair, and including demolition and increased cost of construction.



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r) "Beach Improvements" – Defined as, but not limited to, any alteration of the natural condition of the land by grading, excavating, landscaping, the establishment of beaches, bulkheads, protected sand dunes, stabilization vegetation, seawalls and sea groins, or similar works, including costs of grading, excavation, landfill, and/or earth moving as needed to repair, replace, reclaim, and/or restore such Beach Improvements.

s) "Special Flood Hazard Area" (SFHA) – areas of 100-year flooding as defined by the Federal Emergency Management Agency (FEMA).

t) "Transit" - Shipments within and between the territorial limits of this Policy, including the coastal waters thereof, by any means of conveyance, from the time the property is moved for purpose of loading and continuously thereafter while awaiting and during loading and unloading and in temporary storage including temporary storage on any conveyance intended for use for any outbound or used for inbound shipment, including during deviation and delay, until safely delivered and accepted at place of final destination.

u) "Underlying Policy" - An insurance Policy issued to the Insured which is similar as respects the terms and conditions of this Policy and issued for limits below the attachment point or deductible of this Policy.

v) "Valuable Papers and Records" - Written, printed, or otherwise inscribed documents and records, including but not limited to books, maps, films, drawings, abstracts, deeds, mortgages, micro-inscribed documents and manuscripts.

w) "Electronic Data Processing Media" - All forms of data, converted data, electronically converted data and/or programs and/or applications and/or instructions and/or media vehicles.

x) "Electronic Data Processing Systems" - Electronic Data Processing Systems shall include, but not be limited to, transferring equipment, computer systems, telecommunications systems or electronic control equipment and component parts.

y) "Securities" shall mean all negotiable and nonnegotiable instruments or contracts representing either money or other property, and includes revenue and other stamps in current use, tokens, and tickets.

z) "Fine Arts" - Shall include but not be limited to bona fide works of art, works of rarity, works of historical value, works of artistic merit, photographs (positives and negatives), lithographs, illustrations, galley proofs, original records, sculptures, carvings and similar property.

aa) "Lease Interest" - The excess rent paid for the same or similar replacement property over actual rent payable in accordance with the Insured's lease plus cash bonuses or advance rent paid (including any maintenance or operating charges) for each month during the unexpired term of the Insured's lease; and/or the rental income earned by the Insured from sublease agreements, to the extent not insured under any other section of this Policy, over and above the rental expenses specified in the lease between the Insured and the lessor.

bb) "Architects Fees and Engineering Fees" - Any cost associated with the preparation of plans for the repair or reconstruction of loss under a covered peril to the Covered Property.

cc) "Attraction Properties" - Properties, not owned or operated by the Insured within 3 miles of the Covered Property that attract potential customers to the vicinity of the Insured's location.

dd) "Miscellaneous Unscheduled Locations" - A miscellaneous unscheduled location as used herein shall be defined as a location at which the Insured has property of the type insured hereunder which has not been reported to the Company. Upon report to the Company of said location, the full Policy Limit shall apply.

ee) "Accidental Occurrence" – An interruption that is caused by other than physical loss or damage to the property of the service providers to which Off Premises Power applies.

ff) "Golf Courses" – Man made alterations to the land, including any dams, cart trails, greens, fairways, plants, trees, shrubs, and lawns located thereon. This definition does not include buildings or structures situated thereon. The Company will not pay for loss or damage to golf course outdoor grounds, outdoor trees, shrubs or plants, caused by or resulting from any of the following: A. dampness

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or dryness of atmosphere; B. changes in or extremes of temperature; or C. loss or damage caused by fungus and/or decay; D. loss or damage caused by sickness and/or any other quality in the landscaping that causes it to damage or destroy itself.

gg) "Actual Cash Value" is calculated as the amount it would cost to repair or replace Covered Property on the date of loss, with material of like kind and quality with proper deduction for obsolescence and physical depreciation.

hh) "Reproduction Cost" - the cost to reproduce the damaged building or specific building features to the same design, decorative style and dimensions as existed at the time of loss, using identical materials with respect to kind and quality.

**27. FIRE BRIGADE CHARGES AND EXTINGUISHING EXPENSES**

This Policy covers Fire Brigade Charges/Fire Extinguishing Materials and Expenses for which the Insured may be assessed, including loss of fire extinguishing materials expended, resulting from a peril insured by this Policy.

**28. DEBRIS REMOVAL**

Except as provided in Endorsement 6, this Policy covers the cost of removal of debris of Covered Property including the cost of removal of debris of property not insured hereunder from the Covered Property of the Insured resulting from a peril insured against. Except as otherwise provided for elsewhere in this Policy, this Clause does not cover the cost to extract contaminants or pollutants from land or water, nor does it cover the cost to remove, restore or replace contaminated or polluted land or water.

If at the time Covered Property is contaminated as a direct result of physical damage insured against by this Policy there is in force any law or ordinance regulating contamination, including but not limited to pollution, then this Policy shall cover, as a result of the enforcement of such law or ordinance, the increased cost of decontamination and debris removal of such Covered Property in a manner to satisfy such law or ordinance. As respects Business Interruption coverage(s), this Policy is extended to include such time as is necessary and reasonable with the exercise of due diligence and dispatch to decontaminate such property in a manner to satisfy such law or ordinance.

**29. DEMOLITION AND INCREASED COST OF CONSTRUCTION**

In the event of direct physical loss or damage under this Policy that causes the enforcement of any law or ordinance regulating the construction, repair or use of property in force at the time of such loss or damage, this Company shall be liable for:

- a) the cost of demolishing the undamaged property including the cost of clearing the site;
- b) the value of undamaged property which had to be demolished;
- c) increased cost of repair or reconstruction of the damaged and undamaged property on the same or another site and limited to the costs that would have been incurred in order to comply with the minimum requirements of such law or ordinance regulating the repair, usage or reconstruction of the damaged property on the same site. However, this Company shall not be liable for any increased cost of construction loss unless the damaged property is actually rebuilt or replaced;
- d) any increase in the Business Interruption, Extra Expense, Rental Value, and other business interruption loss arising out of the additional time required to comply with said law or ordinance.

**30. EXPEDITING EXPENSE**

With the prior written consent of the Company, this Policy covers the extra cost of temporary repair and of expediting the repair of damaged Covered Property, including overtime and express freight

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or other rapid means of transportation.

**31. ARSON/THEFTREWARD**

This Policy will pay up to USD 25,000 (with an annual aggregate of USD 50,000) as a reward for information which leads to an arson conviction or theft conviction in connection with a fire or theft loss covered under this Policy. Regardless of the number of persons involved in providing information, the limit of our liability under this extension shall not be increased. The deductible provisions of this Policy shall not apply to this Clause.

**32. CONTRIBUTING INSURANCE**

Contributing insurance is insurance written upon the same plan, terms, conditions, and provisions as those contained in this Policy. This insurance shall contribute in accordance with the conditions of this Policy only with other contributing insurance.

**33. EXCESSINSURANCE**

Excess insurance is insurance over the limit of liability set forth in this Policy. The existence of such excess insurance shall not prejudice the coverage provided under this Policy nor will it reduce any liability hereunder.

**34. UNDERLYING INSURANCE**

Underlying Insurance is insurance on all or any part of the Member's Deductible and against all or any of the perils covered by this Policy including declarations of value to the carrier for hire. The existence of Underlying Insurance shall not prejudice or affect any recovery otherwise payable under this Policy.

Should the amount of loss payable under such Underlying Insurance exceed the Member's Deductible then no amount shall be deducted by the Company from the loss payable under this Policy and the amount that exceeds such a deductible amount shall be considered Other Insurance as defined below.

Should the amount of loss payable under such Underlying Insurance be less than the largest deductible amount that would apply in the event of loss under this Policy, then the amount that shall be deducted by the Company from the loss payable under this Policy shall be the difference between the amount to be paid under such Underlying Insurance and the largest deductible amount that would apply in the event of loss under this Policy.

**35. OTHERINSURANCE**

Except for insurance described by the Contributing Insurance Clause, the Excess Insurance Clause, or the Underlying Insurance Clause, this Policy shall not cover to the extent of any other insurance, whether prior or subsequent hereto in date, and whether directly or indirectly covering the same property against the same perils. This Company shall be liable for loss or damage only to the extent of that amount in excess of the amount recoverable from such Other Insurance.

**36. SUBROGATION AND SUBROGATION WAIVER**

A. It is agreed that upon payment of any loss, this Company is subrogated to all the rights of the Insured to the extent of such payment.

Any release or waiver of liability entered into by the Insured in the course of its business or operations prior to loss (including but not limited to bills of lading and/or receipts from carriers, bailees, warehousemen, lightermen, processors, limiting or releasing their liability) hereunder shall not prejudice the Insured's rights of recovery under this Policy.

B. The right of subrogation against the Insured's subsidiary, affiliated, or associated corporations or companies, joint ventures, partnerships or individuals, or any other



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 corporations or companies associated with the Insured through ownership or management is waived.

C. In the event of any payment under this Policy, except where subrogation rights have been waived, the **Company** shall be subrogated to the extent of such payment to all the Insured's rights of recovery therefore. The Insured shall execute all papers required and shall take reasonable and necessary action to secure such subrogation rights. The **Company** will act in concert with all other interests concerned, such as the Insured and any other companies participating in the payment of any loss as primary or excess companies, in the exercise of such rights of recovery. If any amount is recovered, after deducting the costs of recovery, such amount shall be divided between the interests concerned in the proportion of their respective interests. If there should be no recovery, all costs and expenses shall be borne by the party instituting the proceedings.

**37. SALVAGE AND RECOVERIES**

All salvages, recoveries, and payments, excluding proceeds from subrogation and underlying insurance recovered or received prior to a loss settlement under this Policy shall reduce the loss accordingly. If recovered or received subsequent to a loss settlement under this Policy, such net amounts recovered shall be divided between the interests concerned, i.e. the Insured and any other Company(s) participating in the payment of any loss, in the proportion of their respective interests.

**38. CONTROL OF DAMAGED MERCHANDISE**

The Insured shall have full right to the possession of all goods involved in any loss under this Policy and shall retain control of all damaged goods. The Insured, exercising a reasonable discretion, shall be the sole judge as to whether the goods involved in any loss under this Policy are fit for consumption. No goods so deemed by the Insured to be unfit for consumption shall be sold or otherwise disposed of except by the Insured or with the Insured's consent, but the Insured shall allow this Company any salvage obtained by the Insured on any sale or other disposition of such goods.

**39. BUILDERS RISK**

Builders Risk is subject to a limit of liability of USD 25,000,000 per Occurrence except as noted below. If the completed value of the Builders Risk is USD 25,000,000 or below, no reporting or additional premium is required. If the completed value exceeds USD 25,000,000, the Insured must report the Builders Risk and have it accepted by the Company prior to binding. Once reported and accepted the builders risk limit of liability shall be adjusted accordingly and an additional premium shall be due based on the original allocated resort rate. However, this sublimit shall not apply to additions, improvements, renovations, alterations, or repairs to existing structures. (Ensuing loss resulting from Builders Risk does not limit coverage otherwise noted within this Policy)

**40. BRAND OR TRADEMARK**

In case of damage by a peril insured against to property bearing a brand or trademark or which in any way carries or implies the guarantee or the responsibility of the manufacturer or Insured, the salvage value of such damaged property shall be determined after removal at this Company's expense in the customary manner of all such brands or trademarks or other identifying characteristics.

**41. ERRORS OR OMISSIONS**

Any unintentional error or omission made by the Insured shall not void or impair the insurance hereunder provided the Insured reports such error or omission as soon as reasonably possible after discovery by the Property Manager, Property Owner, or Insurance Department of the Insured.

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**42. NOTICE OF LOSS**

As soon as practicable after any loss or damage occurring under this Policy is known to the Insured's home office insurance department (or the individual acting in a similar capacity), the Insured shall report such loss or damage with full particulars to Alliant Insurance Services, Inc., 140 East 45<sup>th</sup> Street, New York, NY 10017 for transmission to the designated loss adjuster and to this Company.

Except as regards Pollutant or Contaminant Clean-up and Removal, it is agreed that knowledge of an Occurrence by an agent, servant or employee of the Insured shall not in itself constitute knowledge by the Insured. Knowledge is understood to occur only when the Property Manager,

Property Owner, or Insurance Department of the Insured shall have received notice from its agent, servant or employee

**43. DESIGNATED LOSS ADJUSTER**

It is understood and agreed that Chuck McAninley of Sedgwick will adjust each and every loss, unless otherwise agreed by Resort Hotel Association, Inc. and the Company except;

With respect to the Aggregate Deductible structure within the primary layer, it is agreed that all primary carriers will allow the lead carrier in each layer to review, for the purposes of authorizing the settlement, all aggregate losses on behalf of the primary carriers, providing that the aggregate losses to which this language applies are within USD 250,000 net of Member Deductible(s), or as otherwise requested by the carriers.

**44. PROOF OF LOSS**

Proof of loss is required as soon as practicable following the Company's written request for signed Proof from Insured; however, Insured, at its option, may elect to file Proof with Company prior to Company's request. It shall be necessary for the Insured to render a signed and sworn proof of loss to the Company or its appointed representative stating: the place, time and cause of loss, interest of the Insured and of all others, the value of the property involved, and the amount of loss, damage or expense sustained.

**45. NON-REDUCTION OF LIMITS OF LIABILITY**

Any loss hereunder shall not reduce the limit(s) of liability under this Policy except for annual aggregate limits as described in Clause 4.

**46. PARTIAL PAYMENT OF LOSS**

In the event of a loss covered by this Policy, it is understood and agreed that the Company shall allow a partial payment(s) of claim subject to the Policy provisions and normal Company adjustment process.

To obtain said partial claim payment, the Insured shall submit a partial Proof of Loss with supporting documentation.

**47. PAYMENT OF LOSS**

All adjusted claims shall be due and payable no later than thirty (30) days after presentation of proofs of loss by the Insured or its appointed representative.

**48. LOSS ADJUSTMENT EXPENSES**

At the request of the Company, this Policy is extended to include expenses incurred by the Insured

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or by the Insured's representative for preparing and certifying details of a claim resulting from a loss that would be payable under this Policy, including time spent by the Insured's non-officer personnel. This Policy shall not cover the expenses incurred by the Insured in utilizing the services of attorneys, public adjusters, insurance agents, brokers or affiliates thereof.

**49. APPRAISAL**

If the Insured and this Company fail to agree on the amount of loss, each, upon the written demand either of the Insured or of this Company made within 60 days after receipt of proof of loss by the Company, shall select a competent and disinterested appraiser. The appraisers shall then select a competent and disinterested umpire. If they should fail for 15 days to agree upon such umpire,

then upon the request of the Insured or of this Company, such umpire shall be selected by a judge of a court of record in the county and state in which such appraisal is pending. Then, at a reasonable time and place, the appraisers shall appraise the loss, stating separately the value at the time of loss and the amount of loss. If the appraisers fail to agree, they shall submit their differences to the umpire. An award in writing by any two shall determine the amount of loss. The Insured and this Company shall each pay his or its chosen appraiser and shall bear equally the other expenses of the appraisal and of the umpire.

**50. CONSEQUENTIALLOSS**

Except as otherwise provided in this Policy, this Policy insures against:

- a) consequential loss to the Property Covered caused by change of temperature or humidity or by interruption of any service including but not limited to power, heat, air conditioning, or refrigeration resulting from a peril insured against;
- b) the reduction in value to the remaining part or parts of any lot of merchandise usually sold by lots or sizes, color ranges, or other classifications due to damage to or destruction of a part of such lots or other classifications due to a peril insured against.

**51. PAIR AND SET**

Except as provided under the Consequential Loss Clause part b), in the event of loss or damage by a peril insured against to any article or articles which are part of a pair or set, the measure of loss or damage to such article or articles shall be the reasonable and fair proportion of the total value of the pair or set, giving consideration to the importance of said article or articles, but in no event shall such loss or damage be construed to mean total loss of the pair or set.

**52. CONSEQUENTIALREDUCTIONINVALUE**

This Policy covers the reduction in value of insured components or parts of components or parts of products due to loss or damage insured against by this Policy to other insured components or parts of products.

**53. PERMITS**

Permission is hereby granted for any building(s) to be and remain vacant and unoccupied without limit of time and without prejudice to the Insured's right of recovery for claim under this Policy. Any change in occupancy or use of the Covered Property or any increase in hazard shall not prejudice the Insured's right of recovery for claim under this Policy.

**54. INSPECTION AND AUDIT**

This Company shall be permitted, but not obligated, to inspect the Covered Property at any reasonable time. Neither the Company's right to make neither inspections, nor the making thereof, nor any report thereon, shall constitute an undertaking, on behalf of or for the benefit of the Insured

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or others, to determine or warrant that such property is safe.

**55. COINSURANCEWAIVER**

This Policy is not subject to any coinsurance or average Clause.

**56. ASSISTANCE AND COOPERATION OF THE INSURED**

The Insured shall cooperate with this Company and, upon this Company's request and expense, shall attend hearings and trials and shall assist in effecting settlements, in securing and giving evidence, in obtaining the attendance of witnesses, and in conducting suits.

**57. PROTECTION & PRESERVATION OF PROPERTY**

In case of actual or imminent physical loss or damage of the type insured against by this Policy, this Policy insures the expenses incurred by the insured in taking reasonable and necessary actions for the temporary protection and preservation of property insured hereunder.

With the exception of loss or damage caused by Named Windstorm at property insured located in Tier 1 Counties as per Appendix 1 of this Policy, the deductible provisions of this Policy shall not apply to this Clause. As respects insured property located in said Tier 1 Windstorm Counties, a minimum deductible of \$25,000 per Occurrence shall apply to this Clause.

If, after incurring such protection and preservation expenses an actual physical loss or damage is sustained, the applicable Policy deductible shall apply to the combined amount of protection and preservation expenses and the amount of the physical loss or damage.

**58. REINSTATEMENT**

With the exception of loss subject to annual aggregate limits as noted in Clause 4, no loss hereunder shall reduce the amount of this Policy.

**59. SUIT AGAINST THE COMPANY**

No suit or action on this Policy for the recovery of any claim shall be sustainable in any court of law or equity unless the Insured shall have fully complied with all the requirements of this Policy. The Company agrees that any action or proceeding against it for recovery of any loss under this Policy shall not be barred if commenced within the time prescribed therefore in the statutes of the Commonwealth of Virginia, United States of America.

**60. EVIDENCES OF PROPERTY INSURANCE**

It is understood and agreed that Alliant Insurance Services, Inc., the Insured, and/or their designees are authorized to issue Evidences of Property Insurance (evidences) to Loss Payees, Lenders Loss Payees and/or Mortgagees and others for their respective rights and interests subject always to the terms, conditions, and limits of liability of this Policy. All parties to whom an Evidences of Property Insurance has been issued are automatically added to this Policy upon issuance of said evidences, as Loss Payees, Lenders Loss Payees and/or Mortgagees. The Company agrees to waive the issuance of formal Company endorsements in respect of such interests. The Company may request, and be furnished with, all such evidences issued on their behalf at any time.

**61. ADDITIONAL INTERESTS**

It is understood that building, condominium, and timeshare owners have an insurable interest in certain property insured under this Policy, whether or not such property is owned or managed by the Insured or its affiliates.

**62. NOTIFICATION CLAUSE**

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All notices or communications concerning this Policy shall be addressed to the offices of the Insured and to Alliant Insurance Services, Inc., 140 East 45<sup>th</sup> Street, New York, NY 10017. All such notices shall be sent via registered mail.

**63. CANCELLATION**

This Policy may be canceled at any time at the request of Resort Hotel Association, Inc. or it may be canceled by the Company by mailing via registered or certified mail to Resort Hotel Association, Inc., 2100 E. Cary Street, Suite 3, Richmond, VA 23223-7078, Attention: Melanie DuPriest, and with copies provided to Alliant Insurance Services, Inc., 140 East 45<sup>th</sup> Street, New York, NY 10017 stating when, no less than ninety (90) days, except ten (10) days for nonpayment of premium allocated to assets in the United States only, such cancellation shall be effective.

This insurance may be canceled at any time by the insured by surrender of this Policy to the Company or by mailing or delivery to the Company written notice stating when thereafter such cancellation shall take effect. Return premium shall be allowed the Insured on a pro rata basis if the Company cancels and on a customer's short-rate basis if the Insured cancels.

Payments or tender of any unearned premium by the Company shall not be a condition precedent to the effectiveness of cancellation, but such payment shall be made as soon as practicable.

The mailing of notice as described in above shall be sufficient proof of notice and the effective date and hour of cancellation stated in the notice shall become the end of the Policy period. Delivery of such written notice either by the Insured or by this Company shall be equivalent to mailing.

Cancellation shall not affect coverage on any shipment in transit on the date of cancellation. Coverage will continue in full force until such property is safely delivered and accepted at place of final destination.

Removal from the schedule of insured locations of any location(s) belonging to an individual member Loss Payee of the Resort Hotel Association, Inc. shall not affect coverage as respects insured locations belonging to other member Loss Payees of the Resort Hotel Association, Inc. as this Policy will remain in force.

The return premiums as respects such individual member's locations shall be made on a pro-rata basis of the annualized premium that the Association has allocated to the individual member's locations. However, earned premiums amounts above and beyond pro-rata, for the perils of Tier 1 Named Windstorm, for coverage in place anytime between June 1<sup>st</sup> and November 30<sup>th</sup>, shall be at the sole discretion of the Resort Hotel Association and the Company.

**64. TITLES OF PARAGRAPHS**

The titles of the paragraphs of this form and of endorsements and supplemental contracts, if any, now or hereafter attached hereto are inserted solely for convenience of reference and shall not be deemed in any way to limit or affect the provisions to which they relate.

**65. MORTGAGE CLAUSE**

Loss or damage insured, if any, under this Policy shall be payable to the mortgagee(s) (or trustee(s)), lender loss payee(s), or loss payee(s) as interest(s) may appear, and this insurance, as to the interest(s) of the mortgagee(s) (or trustee(s)), lender loss payee(s) or loss payee(s) only therein, shall not be invalidated by any act or neglect of the mortgagor or owner of the Covered Property, nor by any foreclosure or other proceedings or notice of sale relating to the Covered Property, nor by any change in the title or ownership of the Covered Property, nor by the occupation of the Covered Property for purposes more hazardous than are permitted by this Policy provided that in case the mortgagor or owner shall neglect to pay any premium due under this Policy, the mortgagee (or trustee), lender loss payee or loss payee shall, on demand, pay the same.

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This Company reserves the right to cancel this Policy at any time as provided by its terms, but in such case this Policy shall continue in force for the benefit only of the mortgagee (or trustee), lender loss payee or loss payee for thirty (30) days after notice to the mortgagee (or trustee), lender loss payee or loss payee of such cancellation and shall then cease and this Company shall have the right, on like notice, to cancel this agreement.

**66. POLLUTANT & CONTAMINANT CLEAN UP AND REMOVAL**

This is extended to cover the expense actually incurred by the Insured to decontaminate, clean up and/or remove pollutants and contaminants from land, water or air if the release, discharge, or dispersal of the pollutants results from any direct physical loss or damage as covered herein, not to exceed USD 5,000,000 per Occurrence and in the annual aggregate.

It is a condition precedent to recovery under this Clause that the Insured shall give written notice to the Company of intent to claim for such expense not later than 180 days after the date of such physical loss or damage.

**67. STEPDOWN/DROPDOWN/PRIORITY OF PAYMENTS**

Primary - Any recoveries made under this Policy shall first apply to loss or damage not insured against by the excess Policy (ies). Upon exhaustion of this Policy's limit, the excess Policy (ies) shall step down and be liable for the loss in excess of the amount attributed to this Policy as respects loss or damage insured there under subject to the excess Policy (ies) limits.

Excess - The amount of loss from any one Occurrence, for which this Policy is excess, shall be determined by the combined loss, damage or expense as insured under the primary Policy.

In the event of loss or damage involving more than one coverage or peril, The Limits of Liability of the underlying policies shall first apply to the coverage(s) or peril(s) not insured by this Policy, and the remainder, if any to the coverage(s) or peril(s) as provided hereunder. Upon erosion or exhaustion of the Limits of Liability of the underlying policies, this Policy shall then be liable for the loss uncollected from the coverage(s) or perils(s) insured hereunder, subject to the Limit of Liability specified herein.

In the event of reduction or exhaustion of the aggregate limit(s) designated in the underlying Policy (ies), it is hereby understood and agreed that such insurance as is afforded by this Policy shall apply in excess of the reduced or exhausted underlying limit(s).

**68. JURISDICTION**

This Policy shall be governed by the laws of the Commonwealth of Virginia, United States of America, without giving effect to Virginia's conflicts of laws provisions. Any disputes arising hereunder shall be brought in a court whose jurisdiction includes the City of Richmond, Virginia.

**69. TAX LIABILITY**

In the event that a loss insured hereunder cannot be paid in the country where the loss insured under this Policy has occurred, this Company shall be liable for an additional loss payment in accordance with the following formula:

Loss payment due under this section =  $[a (1-c) / (1-b)] - a$

Where:

a = Loss otherwise payable under this Policy except for operation of this coverage, after due consideration for any applicable deductible(s).

b = The net effective rate of the sum of: any taxation (a positive number) plus tax any relief/credit (a negative number) that accrues in the country where loss payments are received.

c = The net effective rate of the sum of: any taxation (a positive number) plus tax any relief/credit (a negative number) that accrues in the country where the loss occurred.



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The formula herein will not apply if the calculation of additional payment results in an amount less than zero. The rates referred to herein will be the respective corporate income tax rates in effect on the date of the loss.

The Insured will cooperate with the Company in making every reasonable effort to pay the loss or portion thereof locally in the country in which the loss occurred.

Any payment under this coverage will be made only after completion and acceptance by the Company of audited tax returns for the period in question for both the country where a payment hereunder is made and the country where the loss occurred. The actual payment under this coverage will be adjusted and reduced by all appropriate tax credits and/or tax relief entitled and/or received by the Insured and/or the local entity where the loss occurred provided that an income tax liability is incurred.

**70. COINSURANCE DEFICIENCY**

This Policy covers the deficiency in the amount of loss payable under the Insured's locally written admitted primary and/or underlying Policy (ies), if any, and its renewals, issued by the Company or its representatives, solely as the result of the application of a coinsurance (or average) Clause for physical loss or damage of the type insured under such local Policy (ies) to property of the type insured under this Policy and not otherwise excluded by this Policy. There is no liability under the terms of this coverage if the Insured is unable to recover any loss under such local Policy (ies), and its renewals, if such inability is the result of intentional under insurance by the Insured.

**71. DEVALUATION/REVALUATION**

Recovery under this Policy shall be increased or reduced to reflect any deficiency or surplus in the amount of collectible loss under a local Policy, caused by devaluation or revaluation of the currency in which it is written, that results from a government decree promulgated between the date of the physical damage which gave rise to the loss and the date of loss settlement. However, the Insured agrees to advise the amount of the adjusted insured values within 60 days of the currency's devaluation, such adjustment to be effective from the date of the decree promulgation.

**72. TENANTS & NEIGHBORS LIABILITY**

This Policy insures:

- a. The liability, which the Insured incurs as tenant or occupant under the articles of any civil or commercial code, because of damage to real and personal property by loss or damage insured by this Policy;
- b. The liability, which the Insured incurs under articles of any civil or commercial code, for damage to real or personal property from loss or damage spreading from the Covered Property to the premises of neighbors, cotenants and other third parties;
- c. The liability, which the Insured as landlord incurs under articles of any civil or commercial code, for loss or damage to the personal property of tenants insured by this Policy as a result of constructional defects or lack of maintenance;

This extension applies only to liability incurred in those countries or jurisdictions in which a Napoleonic or other civil or commercial code applies due to loss or damage as defined by such code and as insured hereunder.

**73. TAX TREATMENT OF PROFITS**

This Policy is extended to insure the additional loss sustained by the Insured resulting from loss or damage insured by this Policy in the event the tax treatment of:

- a. the profit portion of a loss recovery involving Finished Stock manufactured or purchased by the Insured; and/or

Resort Hotel Association Property Policy – March 8, 2020

- b. the profit portion of Business Interruption loss proceeds;

differs from the tax treatment of profits that would have been incurred had no loss occurred.

**74. CURRENCY**

It is hereby understood and agreed that all amounts used herein are in United States currency and that premiums shall be paid, and all losses shall be adjusted and paid in United States currency. In the event of a loss adjustment involving foreign currency, conversion into the currency of the United States of America shall be calculated as follows:

- a. As respects real and personal property, the cost of repair, replacement or reconditioning shall be converted, as of the date of repair, replacement or reconditioning based on the rate of exchange quoted in the Wall Street Journal as of the date of loss. If the property is not replaced or repaired, the conversion into the currency of the United States of America shall be at the rate of exchange quoted in the Wall Street Journal as of the date of loss.
- b. As respects all other coverages, currency shall be converted at the rate of exchange quoted in the Wall Street Journal and such rate of exchange shall be based on the average of the daily rate of exchange quoted in the Wall Street Journal for the period of loss.

**75. DIFFERENCE IN CONDITIONS**

Subject to all other terms and conditions set forth herein, coverage under this Policy shall also apply only when coverage and/or definitions and/or conditions set forth herein are broader in meaning or scope than those of specific underlying or primary or local foreign policies. The insurance provided by this Policy will apply as contributing or excess insurance as respects loss arising from loss or damage insured under such other policies. In the absence of any other valid and collectible insurance, this Policy shall become primary, subject to the terms and conditions of this Policy.

**78. ATTACHMENT CLAUSE**

Attached to and forming part of Policy # \_\_\_\_\_ issued by ACE AMERICAN INSURANCE COMPANY.

\_\_\_\_\_  
[Authorized Signature]



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**APPENDIX # 1**

**TIER 1 COUNTIES**

ALABAMA: Baldwin, Mobile;

FLORIDA: Entire State of Florida;

HAWAII: Entire State of Hawaii;

GEORGIA: Bryan, Camden, Chatham, Glynn, Liberty, McIntosh;

LOUISIANA: Calcasieu, Cameron, Iberia, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Vermilion;

MISSISSIPPI: Hancock, Harrison, Jackson;

NORTH CAROLINA: Beaufort, Bertie, Brunswick, Camden, Carteret, Chowan, Columbus, Craven, Currituck, Dare, Hyde, Jones, New Hanover, Onslow, Pamlico, Pasquotank, Pender, Perquimans, Tyrell, Washington;

SOUTH CAROLINA: Beaufort, Berkley, Charleston, Colleton, Georgetown, Horry, Jasper;

TEXAS: Aransas, Brazoria, Calhoun, Cameron, Chambers, Galveston, Harris (entire County), Jackson, Jefferson, Kenedy, Kleberg, Liberty, Matagorda, Newton, Nueces, Orange, Refugio, San Patricio, Victoria, Willacy;

VIRGINIA: Accomack, Chesapeake City, Gloucester, Hampton City, Isle of Wight, James City, Lancaster, Mathews, Middlesex, Newport News, Norfolk City, Northampton, Northumberland, Poquoson City, Portsmouth City, Suffolk City, Surry, Virginia Beach City, Westmoreland, Williamsburg City, York;

MEXICO: Mexico (States of Baja California Sur, Campeche, Colima, Guerrero, Jalisco, Michoacan, Nayarit, Quintana Roo, Sinaloa, Tabasco, Tamaulipas, Veracruz and Yucatan to 50 miles (80 km) inland)

All other terms, conditions, definitions, exclusions, limitations and provisions of the Policy remain the same.

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**APPENDIX # 2**

**NEW MADRID EARTHQUAKE ZONES**

**Arkansas Counties:** Clay, Craighead, Crittenden, Cross, Greene, Jackson, Lawrence, Mississippi, Poinsett, Randolph, Sharp

**Illinois Counties:** Alexander, Bond, Madison, Clinton, Franklin, Hardin, Jackson, Jefferson, Johnson, Lawrence, Macoupin, Madison, Massac, Monroe, Perry, Pope, Pulaski, Randolph, Saline, St. Clair, Union, Washington, and Williamson

**Indiana Counties:** Gibson, Pike, Posey, Vanderburgh, and Warrick

**Kentucky Counties:** Ballard, Calloway, Carlisle, Fulton, Graves, Hickman, Livingston, Marshall, and McCracken

**Mississippi Counties:** Bolivar, Coahoma, De Soto, Marshall, Tate, and Tunica

**Missouri Counties:** Bollinger, Butler, Cape Girardeau, Dunklin, Franklin, Iron, Jefferson, Madison, Mississippi, New Madrid, Pemiscot, Perry, Reynolds, Scott, St. Charles, St. Francois, St. Louis, Ste. Genevieve, Stoddard, Warren, Washington, and Wayne

**Tennessee Counties:** Crockett, Dyer, Fayette, Gibson, Hardeman, Haywood, Lake, Lauderdale, Madison, Obion, Shelby, and Tipton

All other terms, conditions, definitions, exclusions, limitations and provisions of the Policy remain the same.

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**PACIFIC NORTHWEST EARTHQUAKE ZONES**

**Washington Counties:** Clallam, Jefferson, King, Kitsap, Mason, Pierce, San Juan, Skagit,  
Snohomish, Thurston, and Whatcom

**HAWAIIAN EARTHQUAKE ZONES**

**Hawaii:** The entire State

**ALASKA EARTHQUAKE ZONES**

**Alaska:** The entire State

**FOREIGN HIGH HAZARD EARTHQUAKE ZONES**

**Mexico:** Mexico (States of Baja California North, Colima, Chiapas, Edo de Mexico, Federal District  
including Mexico City, Guerrero, Jalisco, Michoacan, Oaxaca, Sonora,  
Veracruz South)

All other terms, conditions, definitions, exclusions, limitations and provisions of the Policy remain the same.

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**ENDORSEMENT #1**

**BIOLOGICAL OR CHEMICAL MATERIALS EXCLUSION**

It is agreed that this Insurance excludes loss, damage, cost or expense of whatsoever nature directly or indirectly caused by, resulting from or in connection with the actual or threatened malicious use of pathogenic or poisonous biological or chemical materials regardless of any other cause or event contributing concurrently or in any other sequence thereto.

All other terms, conditions, definitions, exclusions, limitations and provisions of the Policy remain the same.

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**ENDORSEMENT #2**

**OCCURRENCE LIMIT OF LIABILITY ENDORSEMENT**

It is agreed that the following special terms and conditions apply to this Policy:

1. The Company's proportion of the Limits of Liability specified in Clause 4 or endorsed on this Policy, is the total limit of the Company's liability applicable to each Occurrence, as hereafter defined. Notwithstanding any other terms and conditions of this Policy to the contrary, in no event shall the liability of the Company exceed this limit or amount irrespective of the number of locations involved.

The term "Occurrence" shall mean any one loss, disaster, casualty, or series of losses, disasters, or casualties, arising out of one event. When the term Occurrence applies to loss or losses from the perils of tornado, cyclone, hurricane, windstorm, hail, Flood, earthquake, volcanic eruption, riot, riot attending a strike, civil commotion, vandalism and malicious mischief or terrorism one event shall be construed to be all losses arising during a continuous period of 72 hours. When filing proof of loss, Resort Hotel Association, Inc. may elect the moment at which the 72-hour period shall be deemed to have commenced, which may not be earlier than the time when the first loss to covered property occurs.

2. The premium for this Policy is based upon the statement of values provided to the Company(s) by or on behalf of the Insured and kept on file by the Company(s). In the event of loss under the Policy, the liability of the Company(s) shall be limited to the least of the following:
  - a.) The actual adjusted amount of loss, less applicable deductible(s);
  - b.) Any other Limit of Liability or Sublimit of Insurance or Amount of Insurance specifically stated in this Policy to apply to any particular insured loss or coverage or location.

All other terms, conditions, definitions, exclusions, limitations and provisions of the Policy remain the same.

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**ENDORSEMENT #3**

**COMBINED MILLENNIUM ENDORSEMENT**

This Policy is hereby amended as follows:

- A. The Company will not pay for Damage or Consequential Loss directly or indirectly caused by, consisting of, or arising from, the failure of any computer, data processing equipment, media microchip, operating systems, microprocessors (computer chip), integrated circuit or similar device, or any computer software, whether the property of the Insured or not, and whether occurring before, during or after the year 2000 that results from the inability to:
  - 1. correctly recognize any date as its true calendar date;
  - 2. capture, save, or retain, and/or correctly manipulate, interpret or process any data or information or command or instruction as a result of treating any date other than its true calendar date; and/or
  - 3. capture, save, retain or correctly process any data as a result of the operation of any command which has been programmed into any computer software, being a command that causes the loss of data or the inability to capture, save, retain or correctly process such data on or after any date.
- B. It is further understood that the Company will not pay for the repair or modification of any part of an electronic data processing system or its related equipment, to correct deficiencies or features of logic or operation.
- C. It is further understood that the Company will not pay for Damage or Consequential Loss arising from the failure, inadequacy, or malfunction of any advice, consultation, design, evaluation, inspection, installation, maintenance, repair or supervision done by the Insured or for the Insured or by or for others to determine, rectify or test, any potential or actual failure, malfunction or inadequacy described in A. above.

Such Damage or Consequential Loss described in A, B, or C above, is excluded regardless of any other cause that contributed concurrently or in any other sequence.

This endorsement shall not exclude subsequent Damage or Consequential Loss, not otherwise excluded, which itself results from a Defined Peril. Defined Peril shall mean fire, lightning, explosion, aircraft or vehicle impact, falling objects, windstorm, hail, tornado, hurricane, cyclone, riot, strike, civil commotion, vandalism, malicious mischief, earthquake, volcano, tsunami, freeze or weight of snow, sudden and accidental breakdown of an object, including mechanical and electrical breakdown.

All other terms, conditions, definitions, exclusions, limitations and provisions of the Policy remain the same.

Resort Hotel Association Property Policy – March 8, 2020

**ENDORSEMENT #4**

**ELECTRONIC DATA ENDORSEMENT A**

**1. Electronic Data Exclusion**

This Policy is hereby amended as follows:-

- (a) This Policy does not insure loss, damage, destruction, distortion, erasure, corruption or alteration of Electronic Data from any cause whatsoever (including but not limited to Computer Virus) or loss of use, reduction in functionality, cost, expense of whatsoever nature resulting therefrom, regardless of any other cause or event contributing concurrently or in any other sequence to the loss.

Electronic Data means facts, concepts and information converted to a form useable for communications, interpretation or processing by electronic and electromechanical data processing or electronically controlled equipment and includes programs, software and other coded instructions for the processing and manipulation of data or the direction and manipulation of such equipment.

Computer Virus means a set of corrupting, harmful or otherwise unauthorized instructions or code including a set of maliciously introduced unauthorized instructions or code, programmatic or otherwise, that propagate themselves through a computer system or network of whatsoever nature. Computer Virus includes but is not limited to 'Trojan Horses', 'worms' and 'time or logic bombs.'

- (b) However, in the event a peril listed below results from any of the matters described in paragraph (a) above, this Policy, subject to all its terms, conditions and exclusions, will cover physical damage occurring during the Policy period to property insured by this Policy directly caused by such listed peril.

Resort Hotel Association Property Policy – March 8, 2020

Listed Perils

Fire  
Explosion  
Aircraft impact, vehicle impact or vessel impact  
Theft  
Collision  
Overturn or Collapse  
Lightning  
Windstorm  
Hail  
Flood  
Earth Movement  
Earthquake Shock  
Water damage  
Riot or civil commotion  
Accidental discharge of fire protecting equipment

**2. Electronic Data Processing Media Valuation**

Notwithstanding any provision to the contrary within the Policy or any endorsement thereto, it is understood and agreed as follows:

Should electronic data processing media insured by this Policy suffer physical loss or damage insured by this Policy, then the basis of valuation shall be the cost to repair, replace or restore such media to the condition that existed immediately prior to such loss or damage, including the cost of reproducing any Electronic Data contained thereon, providing such media is repaired, replaced or restored. Such cost of reproduction shall include all reasonable and necessary amounts incurred by the Insured in recreating, gathering and assembling such Electronic Data. If the media is not repaired, replaced or restored the basis of valuation shall be the cost of the blank media. However, this Policy does not insure any amount pertaining to the value of such Electronic Data to the Insured or any other party, even if such Electronic Data cannot be recreated, gathered or assembled.

All other terms, conditions, definitions, exclusions, limitations and provisions of the Policy remain the same.

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Resort Hotel Association Property Policy – March 8, 2020

**ENDORSEMENT #5**

**MOLD, MILDEW & FUNGUS CLAUSE AND MICROORGANISM EXCLUSION (MAP)**  
**(Time Limit & Sublimit)**

This Policy is hereby amended as follows:

A. This Policy only insures physical loss or damage to Covered Property by mold, mildew or fungus, spores or other microorganism of any type, nature, or description, including but not limited to any substance whose presence poses an actual or potential threat to human health.

when directly caused by a peril insured by this Policy occurring during the policy period:

This coverage is subject to all limitations in the Policy to which this endorsement is attached and, in addition, to each of the following specific limitations:

1. The said property must otherwise be insured under this Policy for physical loss or damage by that peril.
2. The Insured must report to the Company the existence and cost of the physical loss or damage by mold, mildew or fungus as soon as practicable, but no later than twelve (12) months after the peril first caused any physical loss or damage to Covered Property during the policy period. This Policy does not insure any physical loss or damage by mold, mildew or fungus first reported to the Company after that twelve (12) month period.
3. Regardless of circumstance or other Policy provisions, the maximum amount insured and payable under this Policy for all mold, mildew or fungus, spores or other microorganism of any type, nature, or description, including but not limited to any substance whose presence poses an actual or potential threat to human health caused by or resulting from such peril is USD 10,000,000 or all parts of any claim and in total (the aggregate limit) for the policy period. This sublimit applies to all sections or extensions of this Policy combined under which any claim arises or is made.

B. Except as set forth in the foregoing Section A, this Policy does not insure any loss, damage, claim, cost, expense or other sum directly or indirectly arising out of or relating to:

mold, mildew, fungus, spores or other microorganism of any type, nature, or description, including but not limited to any substance whose presence poses an actual or potential threat to human health.

This exclusion applies regardless whether there is (i) any physical loss or damage to insured property; (ii) any insured peril or cause, whether or not contributing concurrently or in any sequence; (iii) any loss of use, occupancy, or functionality; or (iv) any action required, including but not limited to repair, replacement, removal, cleanup, abatement, disposal, relocation, or steps taken to address medical or legal concerns.

All other terms, conditions, definitions, exclusions, limitations and provisions of the Policy remain the same.

Resort Hotel Association Property Policy – March 8, 2020

**ENDORSEMENT #6**

**POLLUTION, CONTAMINATION, DEBRIS REMOVAL EXCLUSION ENDORSEMENT**

This Policy is hereby amended as follows :

**1. Property Not Covered:**

This Policy does not cover land, land values or water, except Other Land Improvements as defined herein, properties pertaining to the Use of Water Clause as defined herein, and properties pertaining to the Loss of Attraction Clause as defined herein.

**2. Pollution and Contamination Exclusion.**

This Policy does not cover loss or damage caused by, resulting from, contributed to or made worse by actual, alleged or threatened release, discharge, escape or dispersal of Contaminants or Pollutants, all whether direct or indirect, proximate or remote or in whole or in part caused by, contributed to or aggravated by any physical damage insured by this Policy.

Nevertheless, if fire is not excluded from this Policy and a fire arises directly or indirectly from seepage or contamination or pollution, any loss or damage insured under this Policy arising directly from that fire is insured, subject to the provisions of this Policy.

Contaminants or Pollutants means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste, which after its release can cause or threaten damage to human health or human welfare or causes or threatens damage, deterioration, loss of value, marketability or loss of use to property insured hereunder, including, but not limited to, bacteria, virus, or hazardous substances as listed in the Federal Water, Pollution Control Act, Clean Air Act, Resource Conservation and Recovery Act of 1976, and Toxic Substances Control Act or as designated by the U. S. Environmental Protection Agency. Waste includes materials to be recycled, reconditioned or reclaimed.

This exclusion shall not apply when loss or damage is directly caused by fire, lightning, aircraft impact, explosion, riot, civil commotion, smoke, vehicle impact, windstorm, hail, vandalism, malicious mischief, named windstorm, flood and earthquake all as defined herein. This exclusion shall also not apply when loss or damage is directly caused by leakage or accidental discharge from automatic fire protective systems.

**3. Asbestos, Dioxin or Polychlorinated Biphenols Exclusions**

This Policy does not cover –

- a) Asbestos, dioxin or polychlorinated biphenols (hereinafter all referred to as "Materials") removal from any good, product or structure unless the asbestos is itself damaged by fire, lightning, aircraft impact, explosion, riot, civil commotion, smoke, vehicle impact, windstorm or hail, vandalism, malicious mischief, leakage or accidental discharge from automatic fire protective system.
- b) Demolition or increased cost of reconstruction, repair, debris removal or loss of use necessitated by the enforcement of any law or ordinance regulating such Materials;

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- c) Any governmental direction or request declaring that such Materials present in or part of or utilized on any undamaged portion of the insured's property can no longer be used for the purpose for which it was intended or installed and must be removed or modified.

The exception to exclusion 3(a), above does not apply to payment for the investigation or defense of any loss, damage or any undamaged portion of the Insured's property that can no longer be used for the purpose for which it was intended.

4. Debris Removal Exclusion

The Company will pay the expense within the applicable Limits of Liability to remove debris of Covered Property that is damaged or destroyed by an insured peril during the Policy Term.

The Company will not pay the expense to:

- a) Extract contaminants or pollutants from the debris; or
- b) Extract contaminants or pollutants from land or water; or
- c) Remove, restore or replace contaminated or polluted land or water; or
- d) Remove or transport any property or debris to a site for storage or decontamination required because the property or debris is affected by pollutants or contaminants, whether or not such removal, transport, or decontamination is required by law or regulation.

It is a condition precedent to recovery under this extension that the Company shall have paid or agreed to pay for direct physical loss or damage to the property insured hereunder and that the Insured shall give written notice to the Company of intent to claim for cost of removal of debris or cost to clean up not later than 180 days after the date of such physical loss or damage.

5. Authorities Exclusion

Notwithstanding any of the provisions of this Policy, the Company shall not be liable for loss, damage, costs, expenses, fines or penalties incurred or sustained by or imposed on the Insured at the order of any Government Agency, Court or other Authority arising from any cause whatsoever.

All other terms, conditions, definitions, exclusions, limitations and provisions of the Policy remain the same.

Resort Hotel Association Property Policy – March 8, 2020

**ENDORSEMENT #7**

**Office of Foreign Assets Control (OFAC) Disclosure Notice**

This Policy is hereby amended as follows:

This proposal or resulting Binder, the continuation of any bound insurance, and any payments to you, to a claimant or to another third party, may be affected by the administration and enforcement of U.S. economic embargoes and trade sanctions by the office of Foreign Assets Control (OFAC), if we determine that any such party is on the "Specially Designated Nationals or Blocked Persons" list maintained by OFAC.

All other terms, conditions, definitions, exclusions, limitations and provisions of the Policy remain the same.

Resort Hotel Association Property Policy – March 8, 2020

**ENDORSEMENT #8**

**LEADER CLAUSE – NEW ACQUISITIONS/DELETIONS**

This Policy is hereby amended as follows:

The Company agrees that the terms, conditions, and pricing of all reported acquisitions and deletions valued less than USD 200,000,000 are to be established by the market underwriting the largest proportion of the primary layer of coverage (the "Leader"). All other following markets on the primary and excess layers will be bound to the terms, conditions, and proportional pricing(s) of the overall program Leader by layer. This condition shall not apply to acquisitions and deletions located within Tier 1 Counties when purchasing Named Windstorm coverage, locations within the State of California when purchasing Earthquake coverage, and International Locations.

All other terms, conditions, definitions, exclusions, limitations and provisions of the Policy remain the same.

Resort Hotel Association Property Policy – March 8, 2020

**ENDORSEMENT #9****UPGRADE TO GREEN – COMMERCIAL ENDORSEMENT**

This endorsement modifies insurance provided by the Policy:

The coverages and valuation provision provided by this endorsement only apply if direct physical loss or damage to covered real and/or personal property is caused by any of the perils covered by the Policy and replacement cost valuation applies. This coverage does not apply to: (1) personal property of others in the Insured's care, custody, and control, (2) leased personal property, and/or (3) Raw Stock, Stock in Process, or Finished Stock.

In no event, does this endorsement increase or change the per Occurrence limit of liability shown in the declarations or the annual aggregate for specified perils.

1. Notwithstanding the Property Valuation Clause of this Policy or Limits of Liability applicable to specific locations or perils, if replacement cost valuation applies to real and/or personal property, then the Company's liability for loss applicable to this endorsement shall be the cost to repair or replace the covered damaged property, subject to the applicable limit of liability, plus the least of the following amounts:
  - A. The reasonable and necessary amount to upgrade to green the covered damaged property as described in Coverage Section A – Non-LEED® Certified Coverage or as described in Coverage Section B – LEED® Certified Coverage, whichever is applicable; or
  - B. An additional 25% of the applicable limit of liability for the building and/or business personal property shown in the Statement of Values or similar schedule to upgrade to green; or
  - C. USD 5,000,000 (five million dollars) to upgrade to green.

At the Insured's sole discretion, the Insured may elect not to upgrade to green any or all property for which upgrade to green coverage is provided under this endorsement. In such case, the Company will adjust the claim in accordance with the standard provisions of the Policy, as modified by all other applicable endorsements.

Subject to the least of A., B., or C. above, if Business Interruption coverage is provided as part of this Policy, if necessary, the Period of Restoration shall be increased to allow for additional time to upgrade to green the damaged property plus up to an additional two-week period to meet the requirements set forth in 4.B.

2. **COVERAGE SECTION A: NON-LEED CERTIFIED COVERAGE**

In the event of direct physical loss or damage by any of the perils covered by the Policy to a building that is not LEED certified at the time of the loss, or to the personal property within such a building, the Company will pay to repair or replace damaged or destroyed:

## Resort Hotel Association Property Policy – March 8, 2020

**A. Loss Settlement for Personal Property**

- (1) "Appliances" or "Office Equipment" with products of like kind and quality that have been identified as "ENERGY STAR®" or equivalent products of such energy efficiency. If there are no such products available at the time of the loss, this upgrade to green coverage does not apply.
- (2) "Systems Furniture" or "Seating", with products of like kind and quality that are certified as GREENGUARD Indoor Air Quality Certified® or products with similar emissions characteristics. If there are no such products available at the time of the loss, this upgrade to green coverage does not apply.

**B. Loss Settlement for the Insured's Building****(1) Interior Finish Materials Upgrade****a. Lower Emissions Products Upgrade Coverage**

Defined Building Materials with Lower Emissions Products. If there are no such products available at the time of the loss, this upgrade to green coverage does not apply.

**b. Environmentally Preferable Products Upgrade Coverage**

Interior wood, carpeting and flooring with products of like kind and quality that are Lower Emissions products, are Sustainably Produced products, are Rapidly Renewable products or include Recycled Content products. If there are no such products available at the time of the loss, this upgrade to green coverage does not apply.

**(2) Interior Plumbing Systems Upgrade Coverage**

Interior plumbing fixtures including, but not limited to, toilets, shower heads, and lavatory faucets with fixtures of like kind and quality that are Water Efficient fixtures. If there are no such products available at the time of the loss, this upgrade to green coverage does not apply. For damaged or destroyed faucets, the Company will also pay to install occupant sensors to reduce the potable water demand.

**(3) Lighting Systems Upgrade Coverage**

Lighting systems, with products of like kind and quality that have been identified as ENERGY STAR products or equivalent products of such energy efficiency. If there are no such products available at the time of the loss, this upgrade to green coverage does not apply. The Company will also pay to repair or replace damaged light bulbs with light bulbs which have low mercury content.



## Resort Hotel Association Property Policy – March 8, 2020

**(4) Efficient Heating and Cooling Equipment Upgrade Coverage**

Heating and cooling equipment with products of like kind and quality that have been identified as ENERGY STAR products or equivalent products of such energy efficiency. If there are no such products available at the time of the loss, this upgrade to green coverage does not apply.

**(5) Building Reconstruction Following Total Loss**

a. Solely with respect to a Total Loss to a building, the Company will pay to replace the building on its existing foundation using the most cost effective techniques, products and materials that should satisfy the prerequisites and earn the minimum number of points required to qualify for LEED Silver certification using the LEED New Construction (LEED NC®) Rating System.

b. Certification Expenses

(i) The Company will pay the reasonable and necessary registration and certification fees charged by the United States Green Building Council (USGBC) that the Insured incurs should the Insured decide to seek LEED Silver certification. However, the Company will not pay to modify the reconstructed structure if it is not certified.

(ii) The Sublimit of Insurance for coverage under this subsection 2.B.(5) is USD 25,000.

**3. COVERAGE SECTION B: LEED CERTIFIED COVERAGE**

In addition to all Coverages provided in Coverage Section A (with the exception of 2.B.(5) Building Reconstruction Following a Total Loss) and in the event of direct physical loss or damage by any of the perils covered by the Policy to a building that is LEED certified at the time of the loss, or to the personal property within such building, the Company will pay to repair or replace damaged or destroyed as follows:

**A. Loss Settlement for Trees, Shrubs, and Vegetative Roofs**

(1) Trees and shrubs planted specifically to secure the Heat Island Effect: Non-Roof point as described in LEED NC. For the purposes of this coverage only, notwithstanding any other provision of the Policy to the contrary, trees and shrubs are Covered Property. The sublimit of insurance for this property coverage is USD 3,000 per tree or USD 3,000 per shrub up to a maximum of USD 25,000.

(2) Vegetative roofs on LEED certified buildings. Notwithstanding any other provision of the Policy to the contrary, vegetative roofs are Covered Property.

Resort Hotel Association Property Policy – March 8, 2020

**B. Loss Settlement for Your Building**

**(1) Recertification Expenses**

- a. In the event of direct physical loss or damage by any of the perils covered by the Policy that necessitates recertification of the damaged building, the Company will pay the reasonable and necessary registration and certification fees charged by the USGBC that the Insured incurs as a result of the recertification process.
- b. The Sublimit of Insurance for coverage under this section 3.B.(1) is USD 25,000.

**(2) Building Reconstruction Following Total Loss**

- a. Solely with respect to a Total Loss to a building that is LEED certified at the time of the loss, the Company will pay to replace the building on its existing foundation using the most cost effective techniques, products and materials that would satisfy the prerequisites and should earn the minimum number of points required to qualify for LEED certification at one level above the certification in effect at the time of the loss using the LEED NC Rating System.
- b. **Certification Expenses**
  - (i) The Company will pay the reasonable and necessary registration and certification fees charged by the USGBC that the Insured incurs should the Insured decide to seek LEED certification. However, the Company will not pay to modify the reconstructed structure if it is not certified.
  - (ii) The Sublimit of Insurance for coverage under this subsection 3.B.(2) is USD 25,000.

**4. COVERAGES INCLUDED WITHIN COVERAGE SECTIONS A OR B AND APPLICABLE TO LEED® AND NON-LEED® CERTIFIED BUILDINGS**

In the event of direct physical loss or damage by any of the perils covered by the Policy to a LEED or Non-LEED certified building:

**A. Recycling Expenses**

- (1) The Company will pay the Insured's expenses to clean-up, sort, segregate, and transport debris from the Insured's damaged building to recycling facilities, if such debris can be recycled.
- (2) The Sublimit of Insurance for this coverage is USD 25,000 and is in addition to the debris removal expense sublimit provided by the Policy, if any.
- (3) Any income or remuneration derived from this recycling shall be used to reduce the loss.

**B. Air Testing and Outdoor Air Ventilation of the Reconstructed Space**

- (1) In accordance with the requirements for the Construction IAQ Management Plan: Before Occupancy Credit as described in the LEED NC rating system (hereinafter, Construction IAQ), the Company will pay to conduct air testing and a building flush-

Resort Hotel Association Property Policy – March 8, 2020

out (if required because of a failure to meet air quality standards set forth in the Construction IAQ) and follow-up air testing for a total period of time not to exceed two weeks.

- (2) After the two-week period of increased outdoor air ventilation of the reconstructed space, the Company will pay to replace the filtration media with new media.
- (3) The Sublimit of Insurance for this coverage is USD 25,000.

**C. Professional Services**

The Company will pay reasonable and necessary expenses to hire a LEED Accredited architect or engineer to participate in the design and/or construction administration of the damaged portion of the building or the entire building, whichever is applicable.

The Sublimit for this coverage is USD 50,000.

**D. Building Commissioning Expenses**

- (1) In the event of direct physical loss or damage to mechanical, electrical, or electronic building systems, by any of the perils covered by the Policy which necessitates the commissioning or re-commissioning of those systems, the Company will pay reasonable and necessary expenses of a Professional Engineer to commission or re-commission those damaged systems in accordance with LEED protocols.
- (2) The Sublimit of Insurance for this coverage under this subsection 4.D.(1) is USD 25,000.

**5. Additional Definitions**

- A. "Appliances" means products including, but not limited to, dishwashers, refrigerators, freezers, ovens, microwave ovens, room air conditioners, room air cleaners and water heaters.
- B. "Defined Building Materials" means: (1) all carpet and floor coverings, including, adhesives to affix them to the floor, (2) all interior paints, architectural coatings, primers, undercoatings, adhesives, sealants, and (3) permanently installed composite wood fixtures, including, counters, cabinets, and partitions.
- C. "ENERGY STAR" means any product that has been identified by the United States Government Department of Energy, Environmental Protection Agency as ENERGY STAR qualified at the time of the loss.
- D. "Heating and Cooling Equipment" means products including, but not limited to, heat pumps, boilers, central air conditioning, ceiling fans, dehumidifiers, exhaust fans, furnaces, thermostats, and ventilating fans.
- E. "Lower Emissions Products means:
  - (1) With respect to adhesive and sealant products, such as, general construction adhesives, flooring adhesives, fire-stopping sealants, caulking, duct sealants, plumbing adhesives, and cove base adhesives, products that meet the requirements of South Coast Air Quality Management District (SCAQMD) Rule # 1168; with respect to aerosol adhesives, products that meet Green Seal Standard GS-36 requirements;

## Resort Hotel Association Property Policy – March 8, 2020

- (2) With respect to architectural paints, coatings, and primers, products that do not exceed the volatile organic compound (VOC) content limits established in Green Seal Standard GS-11, with respect to anti-corrosive and anti-rust paints, products that do not exceed the VOC content limits established in Green Seal Standard GS-03; and with respect to clear wood finishes, floor coatings, stains, and shellacs, products that do not exceed the VOC content limits established by SCAQMD Rule #1113;
  - (3) With respect to carpet and carpet cushion, products that meet the requirements of the Carpet and Rug Institute's Green Label Plus Program; and
  - (4) With respect to composite wood and agrifiber products such as particleboard, medium density fiberboard (MDF), plywood, wheatboard, strawboard, panel substrates and door cores as well as laminating adhesives used to fabricate on-site and shop-applied composite wood and agrifiber assemblies, products that contain no added urea-formaldehyde resins.
- F. "Office Equipment" means electronic products including, but not limited to, desktop computers, laptop computers, monitors, printers, fax machines, scanners, copiers, and telephones.
- G. "Recycled Content Products" means those products that contain at least 20% post-consumer recycled content.
- H. "Rapidly Renewable Products" means products that are made from plant resources that are harvested within a ten-year cycle or shorter, including, but not limited to, bamboo, eucalyptus, wheat straw, sunflower hulls, cork oak, wheatboard, linoleum, and sorghum.
- I. "Seating" means task and guest chairs used with "System Furniture".
- J. "Sustainably Produced Products" means those products certified by the Forest Stewardship Council ("FSC").
- K. "System Furniture" means either a panel-based workstation comprised of modular interconnecting panels, hang-on components and drawer/filing components of a freestanding grouping of furniture items and their components that have been designed to work in concert.
- L. "Total Loss" means:
- (1) The covered building is completely destroyed regardless of whether any damage is done to the foundation or slab, or
  - (2) The covered building is in such condition after the loss that the standard method of rebuilding or repairing the covered building is to raze the structure except for the foundation or slab or including all or part of the foundation or slab and rebuild the entire structure, whether such structure is actually rebuilt or not.
- M. "Water Efficient Fixtures" means dry fixtures such as composting toilet systems and non-water using urinals, flush toilets using no more than 1.6 gallons of water per flush, and shower heads and faucets with a flow rate of no more than 2.2 gallons per minute.

All other terms, conditions, definitions, exclusions, limitations and provisions of the Policy remain the same.



**CHUBB®****POLICY REVISION ENDORSEMENT**

Named Insured Resort Hotel Association, Inc.			Endorsement Number 011
Policy Symbol GPA	Policy Number D42219174003	Policy Period March 8, 2010 to March 8, 2021	Effective Date of Endorsement March 8, 2020
Issued By (Name of Insurance Company) ACE American Insurance Company			

Insert the policy number. The remainder of the information is to be completed only when this endorsement is issued subsequent to the preparation of the policy.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**THIS ENDORSEMENT MODIFIES INSURANCE PROVIDED UNDER THE FOLLOWING:**

**PROPERTY / BOILER & MACHINERY POLICY**

In consideration of the premium charged, the policy is amended as follows:

- A. The **PROGRAM SUBLIMITS** for the perils of Named Windstorm, Flood and Earth Movement in section 4. **LIMITS OF LIABILITY**, are deleted and replaced with the following:

USD 300,000,000	per Occurrence as respects the peril of Named Windstorm,
USD 300,000,000	per Occurrence and in the annual aggregate as respects the peril of Flood
USD 300,000,000	per Occurrence and in the annual aggregate as respects the peril of Earth Movement, except;
USD 10,000,000	Earth Movement in California as respects locations in which Loss Payee Pebble Beach Company and its corporate subsidiaries and affiliates have an identified interest specifically included in a Loss Payee Endorsement; otherwise, unless specifically endorsed hereon, or as appearing within the Loss Payee Endorsement. All other Earth Movement in California is excluded.

- B. The second paragraph of section 5. **DEDUCTIBLE**, is deleted in its entirety and replaced with the following:

Only the difference between the Member Deductible and the Per Occurrence Deductible plus loss adjustment expenses, shall reduce the Aggregate Deductible. Losses from the perils of Flood, Earth Movement, Earthquake Shock and Named Windstorm, as defined herein, shall be subject only to the Member's Deductible and not to the Per Occurrence Deductible, nor shall these losses contribute to the exhaustion of the Aggregate Deductible.

- C. The following is added to Section 20. **EXTENSIONS OF BUSINESS INTERRUPTION COVERAGES**, clause h) Loss of Attraction:

The Waiting Period applicable to this Loss Of Attraction Extension of Business Interruption Coverage is 48 Hours.

- D. Section 20. **EXTENSIONS OF BUSINESS INTERRUPTION COVERAGE** clause h) Loss of Attraction, sub-clause 1. is deleted in its entirety and replaced by the following:

1. Infectious or contagious disease manifested by any person while on the premises of the Insured and access to such location is limited, restricted or prohibited by an order of an authorized governmental agency regulating the actual not suspected presence of communicable disease.

However, this coverage will not apply to any losses sustained from an event arising from the 2019 Coronavirus (COVID-19).

- E. The following counties are added to **Pacific Northwest Earthquake Zones** listed in **APPENDIX # 2**:

**Oregon Counties:** Clatsop, Coos, Curry, Lincoln, and Tillamook

## CHUBB

F. Individual Member deductibles are the greater of the program deductible or the deductible specified in **Endorsement #10 Loss Payees Endorsement – Special Term Summary Schedule of 2020 Member Deductibles**, except for the following:

- 5% per unit of insurance, subject to a minimum \$1,000,000 as respects Named Windstorm in the state of Florida; and
- 5% per unit of insurance, subject to a minimum \$1,000,000 as respects Named Windstorm in Mexico.

G. **Endorsement #11, Indemnity Agreement**, is deleted in its entirety and replaced with the following provision:

### **Indemnity Agreement**

If any Certificates of Insurance or other written evidence are issued with a deductible other than the policy deductible to satisfy the contractual obligation of the Insured to a third party for covered property under this policy, losses will be adjusted with the Insured and payable to the Insured and appropriate loss payee(s) as their interest may appear and will be adjusted based on the policy deductible. The Insured is responsible for the difference between the policy deductible and any deductible evidenced to a third party that is lower than the policy deductible.

H. The following provision is added to the policy:

### **Misrepresentation & Fraud**

This entire policy shall be void if, whether before or after a loss, the Insured has willfully concealed or misrepresented any material fact or circumstance.

All other terms and conditions remain unchanged.



**TERRORISM EXCLUSION**

Named Insured Resort Hotel Association, Inc.			Endorsement Number 012
Policy Symbol GPA	Policy Number D42219174 003	Policy Period 03/08/2020 to 03/08/2021	Effective Date of Endorsement 03/08/2020
Issued By (Name of Insurance Company) ACE American Insurance Company			

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

The following exclusion is added to this policy and applies to all coverages, additional coverages, and coverage extensions, notwithstanding any provision to the contrary in this policy or any other endorsement hereto:

This Policy excludes loss, damage, cost, or expense directly or indirectly caused by or resulting from any of the following regardless of any other cause or event, whether or not insured under this Policy, contributing concurrently or in any other sequence thereto:

- (1) Act of Terrorism;
- (2) action taken by or on behalf of any government or any branch or division thereof (including, without limitation, the uniformed armed forces, militia, police, state security, and anti-terrorism agencies) in responding to, preventing, combating, defending or retaliating against any Act of Terrorism; or
- (3) dispersal, application, or release of any actual or alleged pathogen, poison, biologic or chemical product, material, waste or substance as a result of an Act of Terrorism, and it reasonably appears that one purpose of the Act of Terrorism was to release such product, material, waste or substance.

This exclusion applies whether or not the Act of Terrorism was committed in concert with or on behalf of any organization or government.

The terms and limitations of this exclusion do not serve to create coverage for any loss which would otherwise be excluded under this Policy, such as, but not limited to, losses excluded by the "Nuclear Exclusion" or the "War Exclusion" or similar provision.

If an Act of Terrorism results in a fire and the direct physical loss or damage to property insured hereunder located in any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, each of the United States Virgin Islands and any territory or possession of the United States, that, either pursuant to the Standard Fire Policy or otherwise, prohibits exclusions for acts of terrorism that result in fire, this Company will pay for the loss or damage caused by that fire. Such coverage for fire applies only to direct loss or damage to property insured hereunder and may be limited, in accordance with the Standard Fire Policy, to the lesser of the actual cash value of the property at the time of the loss or the amount which it would cost to repair or replace the property, without allowance for any increased cost of repair or replacement by reason of any ordinance or law, and without any compensation for business interruption, extra expense to continue business activities, or any other coverage for loss or damage other than direct physical loss or damage to the property insured hereunder.

As used in this endorsement, "Act of Terrorism" means any act against persons, organizations or property of any nature:

1. That involves the following or preparation for the following:

- a. Use or threat of force or violence; or
- b. Commission or threat of a dangerous act; or
- c. Commission or threat of an act that interferes with or disrupts an electronic, communication, information, or mechanical system; and

2. When one or both of the following applies:

- a. The effect is to intimidate or coerce a government or the civilian population or any segment thereof, or to disrupt any segment of the economy; or
- b. It appears that the intent is to intimidate or coerce a government, or to further political, ideological, religious, social or economic objectives or to express (or express opposition to) a philosophy or ideology.

"Act of Terrorism" includes any incident determined to be such by an official, department or agency that has been specifically authorized by federal law to make such a determination.

All other terms and conditions remain unchanged.

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Authorized Representative

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Authorized Representative

**EXCLUSION OF CERTIFIED ACTS OF TERRORISM**

Named Insured Resort Hotel Association, Inc.			Endorsement Number 013
Policy Symbol GPA	Policy Number D42219174 003	Policy Period 03/08/2020 to 03/08/2021	Effective Date of Endorsement 03/08/2020
Issued By (Name of Insurance Company) ACE American Insurance Company			

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

1. The following definition is added to the policy with respect to the provisions of this endorsement:

☞ "Certified Act of Terrorism" means an act that is certified by the Secretary of the Treasury, in accordance with the provisions of the federal Terrorism Risk Insurance Act, to be an act of terrorism pursuant to such Act. The criteria contained in the Terrorism Risk Insurance Act for a "Certified Act of Terrorism" include the following:

- a. The act resulted in insured losses in excess of \$5 million in the aggregate, attributable to all types of insurance subject to the Terrorism Risk Insurance Act; and
- b. The act is a violent act or an act that is dangerous to human life, property or infrastructure and is committed by an individual or individuals as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion.

2. The following exclusion is added to the policy:

☞ **CERTIFIED ACT OF TERRORISM EXCLUSION**

The Company will not pay for loss or damage caused directly or indirectly by a "Certified Act of Terrorism". Such loss or damage is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the loss.

3. The following exception to the exclusion in paragraph 2. of this endorsement applies only as indicated:

• **Exception Covering Certain Fire Losses**

If an Act of Terrorism results in a fire and the direct physical loss or damage to property insured hereunder located in any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, each of the United States Virgin Islands and any territory or possession of the United States, that, either pursuant to the Standard Fire Policy or otherwise, prohibits exclusions for acts of terrorism that result in fire, this Company will pay for the loss or damage caused by that fire. Such coverage for fire applies only to direct loss or damage to property insured hereunder and may be limited in accordance with the Standard Fire Policy to the lesser of the actual cash value of the property at the time of the loss or the amount which it would cost to repair or replace the property, without allowance for any increased cost of repair or replacement by reason of any ordinance or law, and without any compensation for business interruption, extra expense to continue business activities, or any other coverage for loss or damage other than direct physical loss or damage to the property insured hereunder.

If aggregate insured losses attributable to terrorist acts certified under the Terrorism Risk Insurance Act exceed \$100 billion in a Program Year (January 1 through December 31) and the Company has met its insurer deductible under the Terrorism Risk Insurance Act, the Company shall not be liable for the payment of any portion of the amount of such losses that exceeds \$100 billion, and in such case insured losses up to that amount are subject to pro rata allocation in accordance with procedures established by the Secretary of the Treasury.

4. The terms and limitations of this exclusion do not serve to create coverage for any loss which would otherwise be excluded under this Policy, such as, but not limited to, losses excluded by the "Nuclear Exclusion" or the "War Exclusion" or similar provision..

All other terms and conditions remain unchanged.

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Authorized Representative

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Authorized Representative

**CHUBB®**

ACE American Insurance Company  
Insurance Company

Resort Hotel Association, Inc.  
Policyholder

D42219174 003  
Policy Number

Alliant Insurance Services  
Broker/Producer

**POLICYHOLDER DISCLOSURE  
NOTICE OF TERRORISM INSURANCE COVERAGE**

You were notified that under the Terrorism Risk Insurance Act, as amended, you have a right to purchase insurance coverage for losses resulting from acts of terrorism. *As defined in Section 102(1) of the Act:* The term "act of terrorism" means any act or acts that are certified by the Secretary of the Treasury---in consultation with the Secretary of Homeland Security, and the Attorney General of the United States---to be an act of terrorism; to be a violent act or an act that is dangerous to human life, property, or infrastructure; to have resulted in damage within the United States, or outside the United States in the case of certain air carriers or vessels or the premises of a United States mission; and to have been committed by an individual or individuals as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion.

**YOU SHOULD KNOW THAT WHERE COVERAGE IS PROVIDED BY YOUR POLICY FOR LOSSES RESULTING FROM CERTIFIED ACTS OF TERRORISM, SUCH LOSSES MAY BE PARTIALLY REIMBURSED BY THE UNITED STATES GOVERNMENT UNDER A FORMULA ESTABLISHED BY FEDERAL LAW. HOWEVER, YOUR POLICY MAY CONTAIN OTHER EXCLUSIONS WHICH MIGHT AFFECT YOUR COVERAGE, SUCH AS AN EXCLUSION FOR NUCLEAR EVENTS. UNDER THE FORMULA, THE UNITED STATES GOVERNMENT GENERALLY REIMBURSES 85% FOR YEAR 2015, 84% BEGINNING ON JANUARY 1, 2016; 83% BEGINNING ON JANUARY 1, 2017, 82% BEGINNING ON JANUARY 1, 2018; 81% BEGINNING ON JANUARY 1, 2019 AND 80% BEGINNING ON JANUARY 1, 2020, OF COVERED TERRORISM LOSSES EXCEEDING THE STATUTORILY ESTABLISHED DEDUCTIBLE PAID BY THE INSURANCE COMPANY PROVIDING THE COVERAGE. THE PREMIUM THAT WOULD BE CHARGED FOR THIS COVERAGE IS PROVIDED BELOW AND DOES NOT INCLUDE ANY CHARGES FOR THE PORTION OF LOSS THAT MAY BE COVERED BY THE FEDERAL GOVERNMENT UNDER THE ACT.**

**YOU SHOULD ALSO KNOW THAT THE TERRORISM RISK INSURANCE ACT, AS AMENDED, CONTAINS A \$100 BILLION CAP THAT LIMITS U.S. GOVERNMENT REIMBURSEMENT AS WELL AS INSURERS' LIABILITY FOR LOSSES RESULTING FROM CERTIFIED ACTS OF TERRORISM WHEN THE AMOUNT OF SUCH LOSSES IN ANY ONE CALENDAR YEAR EXCEEDS \$100 BILLION. IF THE AGGREGATE INSURED LOSSES FOR ALL INSURERS EXCEED \$100 BILLION, YOUR COVERAGE MAY BE REDUCED.**

You elected **NOT** to purchase terrorism coverage under the Act at the price indicated. ACCORDINGLY, WE WILL **NOT** PROVIDE THIS COVERAGE AND YOU DO NOT OWE THE ADDITIONAL PREMIUM FOR THAT COVERAGE INDICATED BELOW.

Terrorism coverage described by the Act under your policy was made available to you for additional premium in the amount of \$Declined, however you elected to decline such coverage. By signing the Notice of Election, you are acknowledging your declination of such coverage.

**CHUBB****BIOLOGICAL, CHEMICAL OR NUCLEAR EXCLUSION**

Named Insured Resort Hotel Association, Inc.			Endorsement Number 014
Policy Symbol GPA	Policy Number D42219174 003	Policy Period 03/08/2020 to 03/08/2021	Effective Date of Endorsement 03/08/2020
Issued By (Name of Insurance Company) ACE American Insurance Company			

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.****This endorsement modifies insurance provided under the following:**

The following exclusion is added to this policy; supersedes any term, provision or endorsement to the contrary in this policy; and applies notwithstanding such term, provision or endorsement:

**BIOLOGICAL, CHEMICAL OR NUCLEAR EXCLUSION**

This policy does not insure against any loss, damage, cost or expense caused by or resulting from any of the following, regardless of any other cause or event contributing concurrently or in any sequence thereto:

1. The unlawful possession, use, release, discharge, dispersal or disposal of any chemical, bacteriological, viral, radioactive or similar agents or material regardless of who is responsible for the act, whether or not the act is certified as an act of terrorism pursuant to the federal Terrorism Risk Insurance Act, and whether war has been declared or not, and regardless of any other cause or event contributing concurrently or in any other sequence thereto; or
2. The unlawful possession, use, release, discharge, detonation, dispersal or disposal of any device or material capable of producing a nuclear reaction or the spread of radioactivity, regardless of who is responsible for the act, whether or not the act is certified as an act of terrorism pursuant to the federal Terrorism Risk Insurance Act, and whether war has been declared or not, and regardless of any other cause or event contributing concurrently or in any other sequence thereto.

All other terms and conditions remain unchanged.

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Authorized Representative

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Authorized Representative

**CAPPING OF LIMITS ENDORSEMENT**

Named Insured <b>Resort Hotel Association, Inc.</b>			Endorsement Number <b>015</b>
Policy Symbol <b>GPA</b>	Policy Number <b>D42219174 003</b>	Policy Period <b>03/08/2020 to 03/08/2021</b>	Effective Date of Endorsement <b>03/08/2020</b>
Issued By (Name of Insurance Company) <b>ACE American Insurance Company</b>			

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

The following provisions are added to this policy; supersede any conflicting provision in this policy; and apply notwithstanding any such conflicting provision:

1. General Policy Declarations is amended by adding the following to Policy Limit And Application Of Limits Of Liability:

**AGGREGATE LIMITS OF LIABILITY**

- A. Notwithstanding any terms or conditions of this policy which might be construed otherwise, and subject to paragraphs B. and C. below, the maximum payable for all loss and damage in any one Occurrence under:

1. this policy; and
2. either:
  - a. any "local admitted policies" issued outside of the United States, including its territories and possessions and Puerto Rico, to the Named Insured or its subsidiary, affiliate or associate at the request of the Company or its affiliate, or
  - b. any reinsurance agreement(s) entered into by the Company, or any affiliate thereof, which provides reinsurance coverage of loss under any policy, including a "local admitted policy(ies)," issued to the First Named Insured or any subsidiary or affiliate thereof,

(such "local admitted policy(ies)" and such reinsurance agreement(s) hereinafter referred to collectively as "Other Agreement(s)";

and
3. any direct or indirect replacement of the policy or Other Agreement(s) shown in A.1. or A.2. above,

combined, shall be the Company's limit of insurance Per Occurrence as shown in the Limits of Liability section of this policy (the "Occurrence Limit").

Subject to paragraphs B. and C. below, the Occurrence Limit is the most that will be paid under this policy and the Other Agreement(s), combined, for all loss and damage in any one Occurrence, regardless of the number of locations, Insureds or coverages involved, and regardless of any occurrence, claim, or accident limit, or any other limit of insurance or limit of liability, in this policy or any Other Agreement(s).

- B. Notwithstanding any terms or conditions of this policy which might be construed otherwise, and subject to paragraph C. below, with regard to covered loss caused by a peril or to a type of covered property or in or affecting a geographic area or location for which a specific limit or sub-limit of insurance is shown in this policy as applicable Per Occurrence, the maximum payable for all such loss and damage in any one Occurrence under:



1. this policy and
2. any Other Agreement(s)

shall be the corresponding limit or sub-limit of liability applicable Per Occurrence shown in this policy.

Such limits or sub-limits of liability are the most that will be paid under this policy and the Other Agreement(s), combined, in any one Occurrence with regard to the corresponding peril, type of covered property, or geographic area or location, regardless of the number of locations, insureds or coverages involved, and regardless of any aggregate, per occurrence, per claim, or per accident limit, or any other limit or sub-limit of insurance or limit or sub-limit of liability, in this policy or any Other Agreement(s).

- C. Notwithstanding any terms or conditions of this policy which might be construed otherwise, with regard to covered loss caused by any peril for which an Annual Aggregate limit or Annual Aggregate sub-limit of liability is shown in this policy, the maximum annual aggregate liability, combined, under:

1. this policy and
2. any Other Agreement(s)

shall be the Annual Aggregate limit or Annual Aggregate sub-limit of liability corresponding to such peril, or corresponding Annual Aggregate sub-limit of liability (if there is a limit or sub-limit of liability applicable to a particular geographic area or location or cause of loss within such a limit or sub-limit of liability), shown in this policy.

Such Annual Aggregate limits or Annual Aggregate sub-limits of liability are the most that will be paid under this policy and the Other Agreement(s), combined, in any annual period of the policy term with regard to covered loss caused by perils for which an Annual Aggregate limit or Annual Aggregate sub-limit of liability is shown in this policy, regardless of the number of Occurrences, locations, insureds or coverages involved, and regardless of any aggregate, per occurrence, per claim, or per accident limit, or any other limit or sub-limit of insurance or liability, in this policy or any Other Agreement(s).

- D. Nothing in this section shall serve to increase any Per Occurrence, Annual Aggregate or aggregate limit or sub-limit of liability of this policy.

2. For purposes of this endorsement, the term "local admitted policies" shall mean a policy or policies issued in a particular country by an admitted insurer in that country, and which policy or policies are part of a worldwide property insurance program for which this policy provides coverage on a difference in conditions and/or difference in limits basis.
3. The Company and/or its affiliates, as the insurer under this policy and as either an insurer or reinsurer under any Other Agreement(s), shall have the right to make payments in excess of the Aggregate Limits of Liability described in section 1. of this endorsement. In addition, the Company and/or its affiliates may be required to make such a payment pursuant to the terms of one or more Other Agreements. However, the First Named Insured agrees that it will reimburse the Company within thirty (30) days of our request for reimbursement of any payment that the Company and/or its affiliates makes under this policy or any payment that is made under any Other Agreement(s) after such Aggregate Limit of Liability is exhausted.

All other terms and conditions remain unchanged.

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Authorized Representative

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Authorized Representative

**POLITICAL RISK EXCLUSION**

Named Insured Resort Hotel Association, Inc.			Endorsement Number 016
Policy Symbol GPA	Policy Number D42219174 003	Policy Period 03/08/2020 to 03/08/2021	Effective Date of Endorsement 03/08/2020
Issued By (Name of Insurance Company) ACE American Insurance Company			

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

The following exclusion is added to the policy; supersedes any term, provision or endorsement to the contrary in this policy; and applies notwithstanding such term, provision or endorsement:

**POLITICAL RISK EXCLUSION**

This Policy excludes loss, damage, cost or expense directly or indirectly caused by or resulting from Political Risk, regardless of any other cause or event, whether or not insured under this policy, contributing concurrently or in any other sequence thereto.

For purposes of this exclusion, the term "Political Risk" means the risk of loss or damage to property in a country caused by:

1. a change in that country's political structure or policies, such as tax laws, tariffs, expropriation of assets, or restriction in repatriation of profits, or any political change that alters the expected outcome and value of a given economic action by changing the probability of achieving business objectives; or
2. non-market factors, such as macroeconomic and social policies (fiscal, monetary, trade, investment, industrial, income, labor, and developmental) of a country or events related to political instability of that country.

All other terms and conditions remain unchanged.

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Authorized Representative

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Authorized Representative

**CHUBB****PRODUCTS RECALL EXCLUSION**

Named Insured Resort Hotel Association, Inc.			Endorsement Number 017
Policy Symbol GPA	Policy Number D42219174 003	Policy Period 03/08/2020 to 03/08/2021	Effective Date of Endorsement 03/08/2020
Issued By (Name of Insurance Company) ACE American Insurance Company			

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.****This endorsement modifies insurance provided under the following:**

The following exclusion is added to this policy; supersedes any term, provision or endorsement to the contrary in this policy; and applies notwithstanding such term, provision or endorsement:

**PRODUCTS RECALL EXCLUSION**

This policy does not insure against any loss, damage, cost or expense:

1. associated with any form of contamination of the Insured's raw stock, stock in process, or finished stock or products in the stream of commerce, all whether direct or indirect, proximate or remote, or in whole or in part caused by, contributed to or aggravated by any physical damage insured in this policy, unless directly resulting from other physical damage not excluded by this policy; or
2. incurred by the Insured or by others for the loss of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal or disposal of the Insured's product or product of the Insured's direct or indirect customers or suppliers if such product or any portion of its withdrawn or recalled from the market or from use by any person or organization, including, but not limited to, any governmental body.

All other terms and conditions remain unchanged.

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 Authorized Representative

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 Authorized Representative

**CERTIFICATES OF INSURANCE ENDORSEMENT**

Named Insured Resort Hotel Association, Inc.			Endorsement Number 018
Policy Symbol GPA	Policy Number D42219174 003	Policy Period 03/08/2020 to 03/08/2021	Effective Date of Endorsement 03/08/2020
Issued By (Name of Insurance Company) ACE American Insurance Company			

Insert the policy number. The remainder of the information is to be completed only when this endorsement is issued subsequent to the preparation of the policy.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

The following provisions are added to this policy and supersede and replace any conflicting provision in this policy (including in any other endorsement hereto):

**CERTIFICATES OF INSURANCE**

Any Certificate of Insurance issued in connection with this Policy, whether by or on behalf of the Company or an Insured, shall be issued solely as a matter of convenience or information of the addressee(s) or holder(s) of such certificate of insurance. A Certificate of Insurance does not confer any rights upon any person or entity, nor alter any term or condition of this Policy. Additional Named Insureds may only be added to this policy by an endorsement.

All other terms and conditions remain unchanged.

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Authorized Representative

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Authorized Representative

**CONTINGENT TIME ELEMENT DEDUCTIBLE ENDORSEMENT**

Named Insured Resort Hotel Association, Inc.			Endorsement Number 019
Policy Symbol GPA	Policy Number D42219174 003	Policy Period 03/08/2020 to 03/08/2021	Effective Date of Endorsement 03/08/2020
Issued By (Name of Insurance Company) ACE American Insurance Company			

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

The following provisions are added to this policy; apply only to coverage provided for Contingent Time Element; and supersede and replace any conflicting provision in this policy (including in any other endorsement hereto):

For Contingent Time Element loss, when a deductible is not specifically stated as applying to Contingent Time Element, the deductible for Contingent Time Element loss will be determined as though the contingent time element location was an insured location under this Policy.

All other terms and conditions remain unchanged.

Authorized Representative

Authorized Representative

**GLOBAL PROGRAM SOLUTIONS ENDORSEMENT**

Named Insured Resort Hotel Association, Inc.			Endorsement Number 020
Policy Symbol GPA	Policy Number D42219174 003	Policy Period 03/08/2020 to 03/08/2021	Effective Date of Endorsement 03/08/2020
Issued By (Name of Insurance Company) ACE American Insurance Company			

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

The following endorsement is added to this policy; supersedes any term, provision or endorsement to the contrary in this policy; and applies notwithstanding such term, provision or endorsement:

**FOREIGN ENTITY LOSS PROVISIONS****A. Insuring Agreement**

1. This endorsement applies only when a Foreign Entity has a Foreign Loss. In the event of a Foreign Loss, the Company will indemnify the First Named Insured for the Foreign Loss caused by an Occurrence in accordance with this endorsement. This endorsement provides the only coverage under this Policy for a Foreign Loss.
2. Nothing in this endorsement is intended to, nor does it, extend coverage beyond the terms, conditions, exclusions and other limitations of this Policy.

**B. Who Is An Insured**

The First Named Insured is the only insured under this endorsement. When this endorsement applies, this Policy is amended to provide that no Foreign Entity is an insured under this Policy.

**C. Limits of Liability**

The insurance provided by this endorsement is subject to all applicable limits and sub-limits of liability, time limits, waiting periods, and deductibles stated in the Declarations of, or elsewhere in, this Policy, including any aggregate limits or sub-limits of liability (collectively, "limits"). Any Foreign Loss for which the Company pays indemnity will erode and be counted against such limits. Such limits apply on the same basis (per Occurrence, annual aggregate, per Location, etc.) with respect to the First Named Insured as would apply if the Foreign Entity was an insured under this Policy.

**D. Additional Definitions**

The following definitions are added to the policy:

1. "First Named Insured" means the first Named Insured shown on the Declarations and must be a United States-domiciled entity.
2. "Foreign Entity" means an entity which would be a Named Insured or insured under this Policy but for the fact that its principal place of business or statutory domicile is located in a jurisdiction where the Company is not Licensed.
3. "Foreign Loss" means a loss incurred or paid by the Foreign Entity that would be covered under the terms and conditions of this Policy if the Foreign Entity was insured under this Policy.
4. "License" or "licensed" means, with respect to any country, permitted in accordance with applicable law to conduct the business of insurance in such country.

**E. Additional Conditions**

The following conditions are added to the policy:

1. FOREIGN LOSS CONDITIONS

The following conditions apply to this endorsement. If there is a conflict between one or more of the following conditions and the other provisions in the Policy, then the following conditions will control:

- a. Matters known by the Foreign Entity will be deemed known by the First Named Insured.
- b. The First Named Insured will, when directed by the Company:
  - (1) retain in its own name, but at the Company's expense, a mutually agreed loss adjusting expert ("loss adjuster") to investigate and adjust the Foreign Loss;
  - (2) where permitted by applicable law, grant the Company the full right to collaborate with such loss adjuster;
  - (3) grant the Company full access to any records produced by such loss adjuster; and
  - (4) where permitted by applicable law, obtain the right to control the investigation and adjustment of the Foreign Loss, using experts approved by us, including access to books, records, bills, invoices, vouchers and other information.

However, the Company will not require the First Named Insured to retain a separate loss adjusting expert if such adjuster has been designated in another provision of this Policy.
- c. The First Named Insured will ensure that the Foreign Entity enforces any right to recovery from any third party with respect to the Foreign Loss or assigns to the First Named Insured any cause of action that the Foreign Entity may have against any third party arising out of the Foreign Loss. In the event of any recovery by the Foreign Entity for a loss paid by the Company to the First Named Insured, the recovery shall be applied as per the subrogation clause of this Policy.
- d. Payment to the First Named Insured of any Foreign Loss will, to the extent of such payment, discharge the Company from any liability to any other entity, whether or not named as an insured in this Policy.

All other terms and conditions remain unchanged.

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Authorized Representative

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Authorized Representative



**LENDER'S LOSS PAYABLE ENDORSEMENT**

Named Insured: <b>Resort Hotel Association, Inc.</b>			Endorsement Number: <b>021</b>
Policy Symbol <b>GPA</b>	Policy Number <b>D42219174 003</b>	Policy Period <b>03/08/2020 to 03/08/2021</b>	Effective Date of Endorsement <b>03/08/2020</b>
Issued By (Name of Insurance Company) <b>ACE American Insurance Company</b>			

The following terms and provisions are added to the Policy; supersede any term, provision or endorsement to the contrary in this Policy; and apply notwithstanding any such term, provision or endorsement in this Policy or in any underlying, contributing or followed policy:

A. Nothing in this LENDER'S LOSS PAYABLE endorsement increases the applicable limit or sub-limit of insurance. The Company will not pay any Lender Loss Payee more than its financial interest in Covered Property and the Company will not pay more than the applicable limit or sub-limit of insurance on the Covered Property.

**B. LENDER LOSS PAYEE AND MORTGAGEE INTERESTS AND OBLIGATIONS**

1. The Company will pay for loss to specified Covered Property to each Lender Loss Payee specified in an endorsement to this Policy as its interest may appear, and to each Mortgagee specified in an endorsement to this Policy as its interest may appear, under all present or future mortgages upon such property, in order of precedence of the mortgages. A "Lender Loss Payee" (hereinafter referred to as Lender) is a creditor of an Insured, whose interest in Covered Property is established by such written instruments as warehouse receipts, contracts for deed, contracts for sale, bills of lading, financing statements, deeds of trust, or security agreements. A "Mortgagee" is a mortgageholder whose interest in Covered Property is established by a written mortgage. Lenders and Mortgagees are not Insureds, and have only the rights and obligations under this Policy that are set forth in this endorsement.
2. The interest of such Lender or Mortgagee (as the case may be) in property insured under this Policy will not be invalidated by:
  - a. any act or neglect of the debtor, mortgagor, or owner (as the case may be) of the property.
  - b. foreclosure, notice of sale, or similar proceedings with respect to the property.
  - c. change in the title or ownership of the property.
  - d. change to a more hazardous occupancy.

Such Lender or Mortgagee will notify the Company of any known change in ownership, occupancy, or hazard and, within 10 days of written request by the Company, may pay the increased premium associated with such known change. If such Lender or Mortgagee fails to timely pay the increased premium, all coverage under this Policy will cease.

3. If this Policy is cancelled at the request of the First Named Insured or its agent, at the same time, the First Named Insured must notify the Company of the identities and mailing addresses of all Lenders and Mortgagees. Coverage for the interest of such Lenders and Mortgagees will terminate 10 days after the Company sends to the Lender or Mortgagee written notice of cancellation, unless:
  - a. sooner terminated by authorization, consent, approval, acceptance, or ratification of the First Named Insured's action by the Lender or Mortgagee, or its agent.

- b. this Policy is replaced by the First Named Insured, with a policy providing coverage for the interest of the Lender or Mortgagee, in which event coverage under this Policy with respect to such interest will terminate as of the effective date of the replacement policy, notwithstanding any other provision of this Policy.
- 4. The Company may cancel this Policy and/or the interest of a Lender or Mortgagee under this Policy by giving any such Lender or Mortgagee specified in an endorsement to this Policy written notice 60 days prior to the effective date of cancellation, if cancellation is for any reason other than nonpayment. If the debtor, mortgagor, or owner has failed to pay any premium due under this Policy, the Company may cancel this Policy for such non-payment, but will give such Lender or Mortgagee written notice 10 days prior to the effective date of cancellation. If such Lender or Mortgagee fails to pay the premium due by the specified cancellation date, all coverage under this Policy will cease.

All other terms and conditions of this Policy remain unchanged.

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**VIRGINIA CHANGES – CANCELLATION AND NONRENEWAL**

Named Insured <b>Resort Hotel Association, Inc.</b>			Endorsement Number <b>022</b>
Policy Symbol <b>GPA</b>	Policy Number <b>D42219174 003</b>	Policy Period <b>03/08/2020 to 03/08/2021</b>	Effective Date of Endorsement <b>03/08/2020</b>
Issued By (Name of Insurance Company) <b>ACE American Insurance Company</b>			

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

The following conditions are added to the policy, supersede any condition to the contrary in the policy and apply notwithstanding such contrary condition:

**A. Cancellation**

1. The first Named Insured shown in the Declarations may cancel this policy by mailing or delivering to the Company advance written notice of cancellation.
2. The Company may cancel this policy by mailing or delivering to the first Named Insured written notice of cancellation, stating the reason for cancellation, at least:
  - a. 15 days before the effective date of cancellation if the Company cancels for nonpayment of premium; or
  - b. 45 days before the effective date of cancellation if the Company cancels for any other reason.
3. The Company will mail or deliver written notice to the first Named Insured's last mailing address known to the Company. If notice is mailed, it will be sent in accordance with Virginia Law.
4. Notice of cancellation will state the effective date of cancellation. The policy period will end on that date.
5. If this policy is cancelled, the Company will send the first Named Insured any premium refund due. The cancellation will be effective even if the Company has not made or offered a refund. The following provisions govern calculation of return premium:
  - a. The Company will compute return premium pro rata and round to the next higher whole dollar when this policy is cancelled:
    - (1) At our request;
    - (2) Because the Insured no longer have a financial or insurable interest in the property or business operation that is the subject of insurance;
    - (3) And rewritten by the Company or a member of our company group; or
    - (4) After the first year, if it is a prepaid policy written for a term of more than one year.
  - b. When this policy is cancelled at the Insured's request (except when Paragraph a.(2), a.(3) or a.(4) applies), the Company will return 90% of the pro rata unearned premium, rounded to the next higher whole dollar. However, when such cancellation takes place during the first year of a multi-year prepaid policy, the Company will return the full annual premium for the subsequent years. In addition, earned premium will not be less than our policywriting minimum premium.
6. If notice is mailed, proof of mailing will be sufficient proof of notice.

**B. Nonrenewal**

1. If the Company elects not to renew this policy, the Company will mail or deliver a notice of nonrenewal to the first Named Insured shown in the Declarations, stating the reason for nonrenewal, at least:
  - a. 15 days before the expiration date if the nonrenewal is due to nonpayment of premium; or
  - b. 45 days before the expiration date if the nonrenewal is for any other reason.

2. The Company will mail or deliver written notice of nonrenewal to the first Named Insured's last mailing address known to the Company. If notice is mailed, it will be sent in accordance with Virginia Law.
3. If notice is mailed, proof of mailing will be sufficient proof of notice.

All other terms and conditions remain unchanged.

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Authorized Representative

IL N 106 09 03

## **VIRGINIA FRAUD STATEMENT**

It is a crime to knowingly provide false, incomplete or misleading information to an insurance company for the purpose of defrauding the company. Penalties include imprisonment, fines and denial of insurance benefits.

## APPLICABLE STATE AMENDATORY PROVISIONS – BENEFIT LEVEL

Named Insured Resort Hotel Association, Inc.			Endorsement Number 023
Policy Symbol GPA	Policy Number D42219174003	Policy Period March 8, 2010 to March 8, 2021	Effective Date of Endorsement March 8, 2020
Issued By (Name of Insurance Company) ACE American Insurance Company			

## THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

The following state amendatory provisions may apply to specific locations on the Schedule of Locations on file with the Company based on their presence within the indicated jurisdictions in compliance with local statutes. The state-specific conditions set forth in these state amendatory provisions are intended to amend the policy to conform to state-specific required minimum conditions and coverage. Where the policy form conditions and coverage are broader than that set forth in this endorsement, then this endorsement shall not apply to restrict or reduce the conditions and coverage provided by the policy form, as long as the policy form's broader conditions and coverage are permitted by applicable state law. Accordingly, the following exclusions, terms and conditions are hereby added to the policy and supersede any term or condition to the contrary in this policy unless such contrary term or condition is both lawful and less restrictive upon the Insured:

ALABAMA CHANGES

1. It is agreed that:
  - a. The Company will not pay for loss or damage arising out of any act committed:
    - (1) By or at the direction of any insured; and
    - (2) With the intent to cause a loss.
  - b. However, this exclusion will not apply to deny coverage to an innocent coinsured when the loss or damage is otherwise covered under this policy and is proximately related to and in furtherance of an abusive act by an insured who is a family or household member. Such coverage will be provided only if the innocent coinsured:
    - (1) Provides evidence of the abuse to the Company, to demonstrate that the loss is abuse-related; and
    - (2) For the act causing the loss, either:
      - (a) Files a complaint under the Protection From Abuse Act against the abuser, and does not voluntarily dismiss the complaint; or
      - (b) Seeks a warrant for the abuser's arrest and cooperates in the prosecution of the abuser.
  - c. If the Company pays a claim pursuant to Paragraph 1.b., the Company's payment to the innocent coinsured is limited to that insured's legal interest in the property less any payments the Company first made to a mortgagee or other party with a legal secured interest in the property. In no event will the Company pay more than the Limit of Insurance.
2. If the Company pays an innocent coinsured for loss arising out of an act of abuse by another insured, the rights of the innocent coinsured to recover damages from the abuser are transferred to the Company to the extent of the Company's payment. Following the loss, the innocent coinsured may not waive such rights to recover against the abuser.
3. **Legal Action Against The Company**  
The time to file suit against the Company shall in no event be less than the time prescribed by Alabama law.
4. Actual cash value is calculated as the amount it would cost to repair or replace Covered Property, at the time of loss or damage, with material of like kind and quality, subject to a deduction for depreciation.  
However, if Covered Property, at the time of loss or damage, has nominal or no economic value, or a value disproportionate to replacement cost less depreciation, the determination of actual cash value is not required.  
Actual cash value applies to valuation of Covered Property regardless of whether that property has sustained partial or total loss or damage.  
The actual cash value of the lost or damaged property may be significantly less than its replacement cost.

ALASKA CHANGES

1. Under any condition in this policy which requires an insured to submit to examination under oath, the insured is entitled to have counsel present during any examination taken under oath.
2. **Concealment, Misrepresentation Or Fraud**  
The Company will not pay for any loss or damage in any case involving misrepresentations, omissions, concealment of facts, or incorrect statements:
  - a. That are fraudulent;
  - b. That are material either to the acceptance of the risk, or to the hazard assumed by the Company; or
  - c. If the Company, in good faith, would not have:
    - (1) Issued the policy or contract;
    - (2) Issued a policy or contract in as large an amount, or at the same premium or rate; or
    - (3) Provided coverage with respect to the hazard resulting in the loss;
 if the true facts had been made known to the Company as required either by the application for the policy or contract or otherwise.
3. **Legal Action Against The Company**  
No one may bring suit against the Company under this policy unless all of the following apply:
  - a. There has been full compliance with all of the terms of this policy; and
  - b. The suit is brought within three years from the date the insured learned that the claim was denied.
4. **Other Insurance**
  - a. The insured may have other insurance. If the insured does, the Company will pay its share of the covered loss or damage. Subject to exceptions as set forth in b below, the Company's share is the proportion that the applicable Limit of Insurance under this policy bears to the Limits of Insurance of all insurance covering the loss or damage.

- b. If there is other insurance as described below, the Company will pay under this policy only for the amount of covered loss or damage in excess of the amount due from that other insurance, whether the insured can collect on it or not:
  - (1) The property covered under this insurance is also covered under another policy or another coverage in this policy, in which it is more specifically described; or
  - (2) The other insurance covers the insured's interest or the interest of others in property which the insured does not own.
5. A loss may be caused by a chain of causes. If a Covered Cause of Loss is the dominant cause of such a loss, the Company will not deny coverage on the basis that a secondary cause in that chain is not a Covered Cause of Loss.
6. The policy is amended by adding the following SCHEDULE and provisions:

## SCHEDULE

Attorney's Fees for a Judgment of \$10,000	Additional Premium \$ Included
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In any suit the Company defends in Alaska, the Company's obligation under Supplementary Payments to pay all costs taxed against the insured is amended by the following:

- A. The Company will pay that portion of the attorney's fees awarded as costs which does not exceed the amount allowed for a contested case in the schedule of attorney's fees contained in Alaska Civil Rule 82 for a judgment equal to the applicable Limit of Insurance.
  - B. However, if a premium and a judgment amount are shown in the Schedule above, the Company will pay, instead of the attorney's fees provided in Paragraph A, above, that portion of the attorney's fees awarded as costs which do not exceed the amount allowed for a contested case in Civil Rule 82 for the judgment amount shown in the Schedule.
7. **Appraisal**  
If the insured and Company fail to agree on the value of the damaged property or the amount of loss, either may make a written demand for an appraisal of the loss. In this event, within 10 days of the demand, each party will choose a competent appraiser and will notify the other of the appraiser selected. The two appraisers will promptly choose a competent and impartial umpire. If they cannot agree, either may request that the choice be made by a judge of a court having jurisdiction. Not later than 15 days after the umpire has been chosen, unless this time period is extended by the umpire, each appraiser will separately state, in writing, the value of the property and the amount of loss. If the appraisers submit a written report of an agreement on the value of the property and the amount of loss, that agreement will be binding. If the appraisers fail to agree, they will promptly submit their differences to the umpire. A decision agreed to by one of the appraisers and the umpire will be binding. Each party will:
- a. Pay its own counsel and adjuster fees; and
  - b. Bear those other expenses and fees which are incurred as a result of the appraisal, either in entirety or proportionately, as determined by the umpire.
- Neither party waives any rights under this policy by agreeing to an appraisal.
8. The undisputed part of a claim will be paid in accordance with the terms of this condition, even if other parts of the claim remain in dispute.

ARIZONA CHANGES

1. It is agreed that:
  - a. The Company will not pay for loss or damage arising out of any act committed:
    - (1) By or at the direction of any insured; and
    - (2) With the intent to cause a loss.
  - b. However, this exclusion will not apply to deny an insured's claim for an otherwise Covered Property loss under this policy if such loss is caused by an act of domestic violence by another insured under this policy and the insured making this claim:
    - (1) Did not cooperate in or contribute to the creation of the loss; and
    - (2) Cooperates in any investigation relating to the loss.
  - c. If the Company pays a claim pursuant to Paragraph 1.b., the Company's payment to the insured is limited to that insured's insurable interest in the property less any payments the Company first made to a mortgagee or other party with a secured interest in the property. In no event will the Company pay more than the Limit of Insurance.
2. If the Company pays an insured for a loss described in Paragraph 1.b., the rights of the insured to recover damages from the perpetrator of domestic violence are transferred to the Company to the extent of the Company's payment. Following the loss, the insured may not waive such rights to recover against the perpetrator of the domestic violence.
3. **Concealment, Misrepresentation Or Fraud**  
The Company will not pay for any loss or damage in any case involving misrepresentations, omissions, concealment of facts or incorrect statements:



- a. That are fraudulent;
  - b. That are material either to the acceptance of the risk, or to the hazard assumed by the Company; and
  - c. Where, if the true facts had been known to the Company as required either by the application for the policy or otherwise, the Company in good faith would either:
    - (1) Not have issued the policy;
    - (2) Not have issued the policy in as large an amount; or
    - (3) Not have provided coverage with respect to the hazard resulting in the loss.
4. The coverage for Fire Department Service Charge (or any variation thereof), is deleted from the policy.

#### ARKANSAS CHANGES

##### 1. Appraisal

- a. If the Company and Insured disagree on the value of the property or the amount of loss, either party may make a written request for an appraisal of the loss. However, an appraisal will be made only if both the Company and Insured agree, voluntarily, to have the loss appraised. If so agreed, each party will select a competent and impartial appraiser. The two appraisers will select an umpire. If they cannot agree, either may request that selection be made by a judge of a court having jurisdiction. As respects physical loss or damage to Covered Property, the appraisers will state separately the value of the property and amount of loss. As respects any Time Element loss, the appraisers will state separately the amount of net income and operating expense or amount of loss. If the appraisers fail to agree, they will submit their differences to the umpire.
  - b. An appraisal decision will not be binding on either party.
  - c. If there is an appraisal, the Company will still retain its right to deny the claim.
  - d. Each party will:
    - (1) Pay its chosen appraiser, and
    - (2) Bear the other expenses of the appraisal and umpire equally.
2. No one may bring suit against the Company unless the suit is brought within five years after the date on which the direct physical loss or damage occurred.
- This Paragraph 2 does not apply to any coverage for loss to property of others in the insured's care, custody or control.
3. The Company will be entitled to recovery only after the insured has been fully compensated for the loss or damage sustained.
- This Paragraph 3 does not apply to any coverage for loss to property of others in the insured's care, custody or control.
4. With respect to any coverage for loss to property of others in the insured's care, custody or control, the Company will be entitled to recovery only after the insured has been fully compensated for the loss or damage sustained, including expenses incurred in obtaining full compensation for the loss or damage.
5. In accordance with ARK. CODE ANN., § 23-88-106, the Company is providing notice of the following:
- Unless otherwise provided by this policy, the Company may deduct expense depreciation. Expense depreciation is defined as depreciation, including but not limited to the cost of goods, materials, labor and services necessary to replace, repair or rebuild damaged property.
- If expense depreciation is applied to a loss for damaged property, the Company shall provide a written explanation as to how the expense depreciation was calculated.

#### CALIFORNIA CHANGES

##### 1. Concealment, Misrepresentation Or Fraud (As Respects Fire Covered Cause Of Loss)

The Company does not provide coverage to the insured who, whether before or after a loss, has committed fraud or intentionally concealed or misrepresented any material fact or circumstance concerning:

- a. This policy;
- b. The Covered Property;
- c. That insured's interest in the Covered Property; or
- d. A claim under this policy.

##### 2. Concealment, Misrepresentation Or Fraud (As Respects Covered Cause Of Loss Other Than Fire)

This policy is void if any insured, whether before or after a loss, has committed fraud or intentionally concealed or misrepresented any material fact or circumstance concerning:

- a. This policy;
- b. The Covered Property;
- c. An insured's interest in the Covered Property; or
- d. A claim under this policy.

##### 3. Appraisal

If the Company and Insured disagree on the value of the property or the amount of loss, either may make written request for an appraisal of the loss. If the request is accepted, each party will select a competent and impartial appraiser. Each party shall notify the other of the appraiser selected within 20 days of the request. The two appraisers will select an umpire. If they cannot agree within 15 days, either may request that selection be made by a judge of a court having jurisdiction. As respects physical loss or damage to Covered Property, the appraisers will state separately the value of the property and amount of loss. As respects any Time Element loss, the appraisers will state separately the amount of net income and operating expense or amount of loss. If the appraisers fail to agree, they will submit their differences to the umpire. A decision agreed to by any two will be binding. Each party will:

- a. Pay its chosen appraiser, and
  - b. Bear the other expenses of the appraisal and umpire equally.
- If there is an appraisal, the Company will still retain its right to deny the claim.

##### 4. With respect to an "open policy":

- a. In the event of a total loss to a building or structure, actual cash value is calculated as the lesser of the following:
  - (1) The Limit of Insurance applicable to that building or structure; or
  - (2) The fair market value of the building or structure.
- b. In the event of a partial loss to a building or structure, actual cash value is calculated as the lesser of the following:

- 1) The amount it would cost to repair, rebuild or replace the property less a fair and reasonable deduction for physical depreciation of the components of the building or structure that are normally subject to repair or replacement during its useful life. Physical depreciation is based upon the condition of the property at the time of the loss; or
  - 2) The Limit of Insurance applicable to the property.
- c. In the event of a partial or total loss to Covered Property other than a building or structure, actual cash value is calculated as the lesser of the following:
- 1) The amount it would cost to repair or replace the property less a fair and reasonable deduction for physical depreciation, based on the condition of the property at the time of loss; or
  - 2) The Limit of Insurance applicable to the property.
- d. An "open policy" is a policy under which the value of Covered Property is not fixed at policy inception, but is determined at the time of loss in accordance with policy provisions on valuation. The term "open policy" does not apply to Covered Property that is subject to an Agreed Value clause or clause that establishes an agreed value prior to loss, unless such clause has expired.

#### COLORADO CHANGES: CONCEALMENT, MISREPRESENTATION OR FRAUD

##### Concealment, Misrepresentation Or Fraud

The Company will not pay for any loss or damage in any case of:

- 1. Concealment or misrepresentation of a material fact; or
- 2. Fraud;

committed by the insured at any time and relating to coverage under this policy.

#### CONNECTICUT CHANGES

##### 1. Description Of Terms

a. The term building and the term vacant have the meanings set forth in (1) and (2) below:

- (1) When this policy is issued to a tenant, and with respect to that tenant's interest in Covered Property, building means the unit or suite rented or leased to the tenant. Such building is vacant when it does not contain enough business personal property to conduct customary operations.
- (2) When this policy is issued to the owner or general lessee of a building, building means the entire building. Such building is vacant when 70% or more of its total square footage:
  - (a) Is not rented to a lessee or sub-lessee or is not used by the lessee or sub-lessee to conduct its customary operations; and/or
  - (b) Is not used by the building owner to conduct customary operations.

b. Buildings under construction or renovation are not considered vacant.

##### 2. The following provisions are added and replace any provisions to the contrary:

- a. The insured and Company must notify the other of the appraiser selected within 20 days of the written demand for appraisal;
- b. If the appraisers do not agree on the selection of an umpire within 15 days, they must request selection of an umpire by a judge of a court having jurisdiction;

##### 3. Mortgageholder's Interests And Obligations

If loss hereunder is made payable, in whole or in part, to a designated mortgageholder not named herein as the insured, such interest in this policy may be cancelled by giving to such mortgageholder a ten days' written notice of cancellation:

If the insured fails to render proof of loss such mortgageholder, upon notice, shall render proof of loss in the form specified within sixty (60) days thereafter and shall be subject to the provisions hereof relating to appraisal and time of payment and of bringing suit. If the Company claims that no liability existed as to the mortgage or owner, the Company shall, to the extent of payment of loss to the mortgageholder, be subrogated to all the mortgageholder's rights of recovery, but without impairing mortgageholder's rights to sue; or the Company may pay off the mortgage debt and require an assignment thereof and of the mortgage. Other provisions relating to the interests and obligations of such mortgageholder may be added hereto by agreement in writing.

##### 4. If any conditions of The Standard Fire Insurance Policy of the State of Connecticut, as set forth in the General Statutes of Connecticut, are construed to be more liberal than any other policy condition, the conditions of The Standard Fire Insurance Policy will apply.

##### 5. The Company will pay for covered loss or damage within 30 days after it receives the sworn proof of loss, if the insured has complied with all of the terms of this policy and:

- a. The Company has reached agreement with the insured on the amount of loss; or
- b. An appraisal award has been made.

Prior to expiration of the aforementioned time period, the Company may make partial payment towards the amount of loss as an advance payment, provided the Company and insured agree to such advance payment in writing. The advance payment will be credited towards the total amount of covered loss or damage. An advance payment does not extend the time for payment of the total amount of covered loss or damage.

##### 6. The actual cash value immediately prior to the time of covered direct physical loss or damage shall be the amount which it would cost to repair or replace the damaged building with material of like kind and quality, minus reasonable depreciation. Depreciation, as used herein, means a decrease in value over a period of time due to wear and tear.

#### FLORIDA CHANGES

##### 1. The following provision applies in the event this policy contains a Coinsurance provision:

Coinsurance contract: The rate charged in this policy is based upon the use of the coinsurance clause attached to this policy, with the consent of the Insured.

##### 2. Provided the insured has complied with all the terms of this policy, the Company will pay for covered loss or damage upon the earliest of the following:

- a. Within 20 days after the Company receives the sworn proof of loss and reach written agreement with the insured;
- b. Within 30 days after the Company receives the sworn proof of loss and:
  - (1) There is an entry of a final judgment; or
  - (2) There is a filing of an appraisal award with the Company; or
- c. Within 90 days of receiving notice of an initial, reopened or supplemental claim, unless the Company denies the claim during that time or factors beyond its control reasonably prevent such payment. If a portion of the claim is denied, then the 90-day time period for payment of claim relates to the portion of the claim that is not denied.

Paragraph c, applies only to the following:

- (1) A claim under a policy covering residential property;
- (2) A claim for building or contents coverage if the insured structure is 10,000 square feet or less and the policy covers only locations in Florida; or
- (3) A claim for contents coverage under a tenant's policy if the rented premises are 10,000 square feet or less and the policy covers only locations in Florida.

### 3. Catastrophic Ground Cover Collapse

The Company will pay for direct physical loss or damage to Covered Property caused by or resulting from catastrophic ground cover collapse, meaning geological activity that results in all of the following:

- a. The abrupt collapse of the ground cover;
- b. A depression in the ground cover clearly visible to the naked eye;
- c. "Structural damage" to the building, including the foundation; and
- d. The insured structure being condemned and ordered to be vacated by the governmental agency authorized by law to issue such an order for that structure.

However, damage consisting merely of the settling or cracking of a foundation, structure or building does not constitute loss or damage resulting from a catastrophic ground cover collapse.

Any exclusions for Earth Movement and Collapse do not apply to coverage for Catastrophic Ground Cover Collapse.

Coverage for Catastrophic Ground Cover Collapse does not increase the applicable Limit of Insurance. Regardless of whether loss or damage attributable to catastrophic ground cover collapse also qualifies as Sinkhole Loss or Earthquake (if either or both of those causes of loss are covered under this policy), only one Limit of Insurance will apply to such loss or damage.

### 4. With respect to the Civil Authority coverage of this policy, if any:

- a. Any mileage limitation set forth therein, if any, shall not apply; and
- b. A coverage period of not less than three weeks shall apply.

### 5. With respect to the coverage provided under this Florida Changes amendatory, "Structural damage" means a covered building, regardless of the date of its construction, that has experienced the following:

- a. Interior floor displacement or deflection in excess of acceptable variances as defined in ACI 117-90 or the Florida Building Code, which results in settlement related damage to the interior such that the interior building structure or members become unfit for service or represent a safety hazard as defined within the Florida Building Code;
- b. Foundation displacement or deflection in excess of acceptable variances as defined in ACI 318-95 or the Florida Building Code, which results in settlement related damage to the primary structural members or primary structural systems that prevents those members or systems from supporting the loads and forces they were designed to support to the extent that stresses in those primary structural members or primary structural systems exceed one and one-third the nominal strength allowed under the Florida Building Code for new buildings of structure, purpose, or location;
- c. Damage that results in listing, leaning, or buckling of the exterior load bearing walls or other vertical primary structural members to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one-third of the base as defined within the Florida Building Code;
- d. Damage that results in the building, or any portion of the building containing primary structural members or primary structural systems, being significantly likely to imminently collapse because of the movement or instability of the ground within the influence zone of the supporting ground within the shear plane necessary for the purpose of supporting such building as defined within the Florida Building Code; or
- e. Damage occurring on or after October 15, 2005, that qualifies as substantial structural damage as defined in the Florida Building Code.

### 6. Legal Action Against The Company

Legal action against the Company involving direct physical loss or damage to property must be brought within 5 years from the date the loss occurs.

### 7. Mediation Or Appraisal

With respect to a loss to commercial residential property only, if the Company and Insured:

- a. Are engaged in a dispute regarding a claim, either party may request a mediation of the loss in accordance with the rules established by the Florida Department of Financial Services. The loss amount must be \$500 or more, prior to application of the deductible; or there must be a difference of \$500 or more between the loss settlement amount the Company offers and the loss settlement amount that the insured requests. The settlement in the course of mediation is binding only if both parties agree, in writing, on a settlement, and the Company has not rescinded the settlement within 3 business days after reaching settlement. The insured may not rescind the settlement after cashing or depositing the settlement check or draft the Company provided to the insured.

The Company will pay the cost of conducting the mediation conference. However, if:

- (1) The insured fails to appear at the mediation conference and the Company wishes to schedule a new conference after failing to appear, then the new conference will be scheduled only upon the insured's payment of a sum equal to the fees the Company paid for the mediation conference at which the insured failed to appear. This sum will then be applied to the cost of the rescheduled mediation conference, and the Company will pay the balance, if any, of the cost of conducting the rescheduled mediation conference; or

- (2) The Company fails to appear at a mediation conference without good cause, the Company will pay the insured's actual cash expenses the insured incurs in attending the mediation conference and also pay the total cost of the rescheduled mediation conference.

- b. Disagree on the value of the property or the amount of loss, either may request an appraisal of the loss, in writing. In this event, each party will select a competent and impartial appraiser. The two appraisers will select an umpire. If they cannot agree, either may request that selection be made by a judge of a court having jurisdiction. The appraisers will state separately the value of the property and amount of loss. If they fail to agree, they will submit their differences to the umpire. A decision agreed to by any two will be binding. Each party will:

- (1) Pay its chosen appraiser; and
- (2) Bear the other expenses of the appraisal and umpire equally.

If there is an appraisal, the Company will still retain its right to deny the claim.

However, the insured is not required to submit to, or participate in, any appraisal of the loss as a precondition to action against the Company for failure to pay the loss, if the Company:

- (1) Requested mediation and either party rejected the mediation result; or
- (2) Failed to notify the insured of the insured's right to participate in the mediation program.

### GEORGIA CHANGES

#### 1. It is agreed that:

- a. The Company will not pay for loss or damage arising out of any act committed:
  - (1) By or at the direction of any insured; and
  - (2) With the intent to cause a loss.
- b. However, this exclusion will not apply to deny coverage to an innocent co-insured, provided the loss:
  - (1) Is otherwise covered under this policy; and
  - (2) Arose out of an act of family violence by an insured against whom a family violence complaint is brought for such act.
- c. If the Company pays a claim pursuant to Paragraph 1.b., the Company's payment to the insured is limited to that insured's legal interest in the property less any payments the Company first made to a mortgageholder or other party with a legal secured interest in the property. In no event will the Company pay more than the Limit of Insurance.

#### 2. As respects the exclusion of fungus, wet or dry rot, or bacteria (or any variation thereof), if any, and the limited coverage for fungus, wet or dry rot, and bacteria (or any variation), if any:

With respect to the portion of Covered Property that would still have required repair or replacement had there been no fungus, wet or dry rot or bacteria, the exclusion and limited coverage, if any, will not serve to limit the amount of recovery for such repair or replacement.

However, the exclusion and limited coverage, if any, shall continue to apply to:

- a. The cost to treat, contain, remove or dispose of fungus, wet or dry rot or bacteria beyond that which is required to repair or replace Covered Property;
- b. The cost of testing as described in the limited coverage; and
- c. Any increase in loss under business income and/or extra expense coverage resulting from a, or b, above.

Regardless of whether the exclusion and limited coverage, if any, apply to a loss, the Limit of Insurance on Covered Property is not increased. The maximum recoverable, for the total of the cost to repair or replace Covered Property and any additional covered cost to treat, contain, remove, dispose of or test for fungus, wet or dry rot or bacteria, is the applicable Limit of Insurance on the affected Covered Property.

#### 3. In the event of loss or damage covered by this policy, at the Company's option the Company will either:

- a. Repair, rebuild or replace the property with other property of like kind and quality, or pay the cost of such repair, rebuilding or replacement, as limited by any provision in this policy; or
- b. Take all or any part of the property at an agreed or appraised value.

With respect to Paragraph a., this policy covers only the cost of repair, rebuilding or replacement. Such cost does not include recovery of, and therefore this policy does not pay any compensation for, an actual or perceived reduction in the market value of any property. But if the property that has sustained loss or damage is subject to an endorsement which explicitly addresses market value, then that endorsement will apply to such property in accordance with its terms.

### HAWAII CHANGES

#### 1. Fraud, Concealment Or Misrepresentation

- a. This insurance is void in any case of fraud by the insured as it relates to this insurance whether before or after a loss.
- b. Concealment or misrepresentation, whether before or after a loss, shall prevent a recovery under this insurance if it:
  - (1) Was made with actual intent to deceive; or
  - (2) Materially affects either the acceptance of the risk or the hazard assumed by the Company.

#### 2. It is agreed that:

- a. The Company will not pay for loss or damage arising out of any act committed:
  - (1) By or at the direction of any insured; and
  - (2) With the intent to cause a loss.
- b. However, this exclusion will not apply to deny an insured's claim for an otherwise Covered Property loss if such loss is caused by an act of "domestic abuse" by another insured under the policy, and the insured making claim:
  - (1) Files a police report and cooperates with any law enforcement investigation relating to the act of "domestic abuse"; and
  - (2) Did not cooperate in or contribute to the creation of the loss.
- c. If the Company pays a claim pursuant to Paragraph 1.b., the Company's payment to the insured is limited to that insured's insurable interest in the property less any payments the Company first made to a mortgagee or other party with a legal secured interest in the property. In no event will the Company pay more than the Limit of Insurance.

#### 3. If the Company pays an insured, who is a victim of "domestic abuse", for a loss caused by an act of "domestic abuse", the rights of that insured to recover damages from the perpetrator of the abuse are transferred to the Company to the extent of its payment. That insured may not waive such rights to recover against the perpetrator of the "domestic abuse".

#### 4. As used in this provision, "domestic abuse" means:

- a. Physical harm, bodily injury, assault or the infliction of fear of imminent physical harm, bodily injury or assault between family or household members;
- b. Sexual assault of one family or household member by another;
- c. Stalking of one family or household member by another family or household member; or
- d. Intentionally, knowingly or recklessly causing damage to property so as to intimidate or attempt to control the behavior of another family or household member.

### ILLINOIS CHANGES

#### 1. Legal Action Against The Company

The time period for legal action against the Company is extended by the number of days between the date the proof of loss is filed with the Company and the date the Company denies the claim in whole or in part.

#### 2. If this policy covers:



- a. The following in a.(1) and (2), then Paragraphs b, and c, apply:
- (1) Real property used principally for residential purposes up to and including a four family dwelling; or
  - (2) Household or personal property that is usual or incidental to the occupancy of any premises used for residential purposes.
- b. The following provisions are added and replace any provisions to the contrary:
- (1) Each party will pay its own appraiser and bear the other expenses of the appraisal and umpire equally, except as provided in b. below.
  - (2) The Company will pay the insured's appraiser's fee and the umpire's appraisal fee, if the following conditions exist:
    - (a) The insured demanded the appraisal; and
    - (b) The full amount of loss, as set by the insured's appraiser, is agreed to by the Company's appraiser or by the umpire.
- c. Concealment, Misrepresentation Or Fraud
- (1) This policy is void if the insured or any insured commit fraud or conceal or misrepresent a fact in the process leading to the issuance of this insurance, and such fraud, concealment or misrepresentation is stated in the policy or endorsement or in the written application for this policy and:
    - (a) Was made with actual intent to deceive; or
    - (b) Materially affected either the Company's decision to provide this insurance or the hazard the Company assumed.

However, this condition will not serve as a reason to void this policy after the policy has been in effect for one year or one policy term, whichever is less.
  - (2) The Company does not provide coverage, if the insured at any time subsequent to the issuance of this insurance, commits fraud or intentionally conceals or misrepresents a material fact relating to:
    - (a) This policy;
    - (b) The Covered Property;
    - (c) The insured's interest in the Covered Property; or
    - (d) A claim under this policy.
  - (3) Notwithstanding the limitations stated in paragraph c.(1) above, the Company may cancel the policy accordance with the terms of the Cancellation Condition.
3. The Company will not pay for loss or damage arising out of any act an insured commits or conspires to commit with the intent to cause a loss.
- In the event of such loss, no insured is entitled to coverage, even insureds who did not commit or conspire to commit the act causing the loss.
- However, this exclusion will not apply to deny payment to an innocent co-insured who did not cooperate in or contribute to the creation of the loss if:
- a. The loss arose out of a pattern of criminal domestic violence; and
  - b. The perpetrator of the loss is criminally prosecuted for the act causing the loss.
- If the Company pays a claim pursuant to the foregoing paragraph, its payment to the insured is limited to that insured's insurable interest in the property less any payments the Company first made to a mortgagee or other party with a legal secured interest in the property. In no event will the Company pay more than the Limit of Insurance.
4. If the Company initially defends an insured or pays for an insured's defense but later determines that the claim(s) is (are) not covered under this insurance, the Company will have the right to reimbursement for the defense costs it has incurred.
- The right to reimbursement for the defense costs under this provision will only apply to defense costs the Company has incurred after the Company notifies the insured in writing that there may not be coverage, and that the Company is reserving its rights to terminate the defense and seek reimbursement for defense costs.

## INDIANA CHANGES

## SCHEDULE

Specifically Identified substances or materials	
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1. In this policy, the definition of "pollutants" is deleted and replaced by the following:  
 "Pollutants" means any substance or material that is a solid, liquid, gaseous or thermal irritant or contaminant including but not limited to, smoke, vapor, soot, fumes, acids, alkalis, chemicals, waste and any substances or materials identified in the Schedule. Waste includes materials to be recycled, reconditioned or reclaimed.  
 The definition of "pollutants", applies whether or not the irritant or contaminant has any function in your business, operations, premises, site or location.
2. Concealment, Misrepresentation Or Fraud
  - a. The Company will not pay for any loss or damage in any case of:
    - (1) Concealment or misrepresentation of a material fact; or
    - (2) Fraud;

committed by an insured at any time and relating to a claim under this policy.
  - b. However, Paragraph a, does not apply when a claim is made by an "innocent co-insured", provided:
    - (1) The property loss or damage occurs to the primary residence of the "innocent co-insured" as covered under Building Coverage.
    - (2) The "final settlement" for the property loss or damage is at least 60% of available insurance proceeds under the policy.
  - c. Any payment made pursuant to Paragraph b, will be for:
    - (1) The actual cost of repair or replacement of the property that is the subject of the claim if the actual cost of repair or replacement is less than or equal to the maximum limit of coverage under the policy; or
    - (2) The maximum limit of coverage under the policy if the actual cost of repair or replacement of the property that is the subject of the claim is greater than the maximum limit of coverage under the policy.
  - d. Any payment made pursuant to Paragraph b. is limited to the following:
    - (1) An "innocent co-insured's" ownership interest in the property, less any payments the Company makes to a mortgagee or other lienholder with a secured interest in the property.
    - (2) The Company will not pay another co-insured for any part of the claim for which the Company has already paid to an "innocent co-insured".

- (3) The Company will not pay an amount that is greater than the amount an "innocent co-insured" is entitled to under a decree of dissolution of marriage between the "innocent co-insured" and an individual described in Paragraphs e.(1)(a) or (b).
  - e. As used in this INDIANA CHANGES provision, "innocent co-insured" is an insured who:
    - (1) Did not have knowledge of, cooperate in, or intentionally contribute to a property loss or damage that was caused or arranged by another individual who:
 

Is an insured and:

      - (a) Died in connection with the circumstances that caused the property loss or damage; or
      - (b) Has been charged with a crime based on a court finding that there is probable cause to believe that the individual committed the crime in connection with the circumstances that caused the property loss or damage;
    - (2) Signs a sworn affidavit attesting that they did not have knowledge of, cooperate in, or intentionally contribute to the property loss or damage; and
    - (3) Cooperates in the investigation and resolution of the claim for the property loss or damage, any police investigation related to the property loss or damage, and any criminal prosecution of the individual that caused or arranged the property loss or damage.
  - f. As used in this INDIANA CHANGES provision, "final settlement" is a determination:
    - (1) Of the amount owed by the Company to an "innocent co-insured" under building coverage under the policy and for property loss or damage to the "innocent co-insured's" primary residence; and
    - (2) Made by:
      - (a) Acceptance of a proof of loss by the Company;
      - (b) Execution of a release by the "innocent co-insured";
      - (c) Acceptance of an arbitration award by the "innocent co-insured" and the Company; or
      - (d) Judgment of a court of competent jurisdiction.

However, "final settlement" does not apply to loss or damage related to contents, personal property, or another loss that is not covered under building coverage under this policy.
3. Transfer Of Rights Of Recovery Against Others To The Company
- If any person or organization to or for whom the Company makes payment under this policy has rights to recover damages from another, those rights are transferred to the Company to the extent of its payment. The Company's right to recover damages from another may be enforced even if the person or organization to or for whom the Company makes payment has not been fully compensated for damages.
- The person or organization to or for whom the Company makes payment must do everything necessary to secure its rights and must do nothing after loss to impair them. But the insured may waive their rights against another party in writing:
- a. Prior to a loss to the insured's Covered Property or Covered Income.
  - b. After a loss to your Covered Property or Covered Income only if, at time of loss, that party is one of the following:
    - (1) Someone insured by this insurance;
    - (2) A business firm:
      - (a) Owned or controlled by the insured; or
      - (b) That owns or controls the insured; or
    - (3) The insured's tenant;
- This will not restrict the insured's insurance.

## IOWA CHANGES

## Legal Action Against The Company

With respect to any coverage for loss to property of others in the insured's care, custody or control, no person or organization has a right under this policy:

- a. To join the Company as a party or otherwise brings the Company into a "suit" asking for damages from the insured; or
  - b. To sue the Company on this policy unless all of its terms have been fully complied with.
- A person or organization may sue the Company to recover on an agreed settlement or on a final judgment against the insured that is returned unsatisfied; but the Company will not be liable for damages that are not payable under the terms of this policy or that are in excess of the Limit of Insurance. The judgment creditor shall have a right of action against the Company to the same extent that the insured could have enforced a claim against the Company had the insured paid such judgment. An agreed settlement means a settlement and release of liability signed by the Company, the insured and the claimant or claimant's legal representative.

## KANSAS CHANGES

## 1. Legal Action Against The Company

No one may bring suit against the Company under this policy unless:

- a. There has been full compliance with all of the terms of this policy; and
- b. The action is brought within five years after the date on which the direct physical loss or damage occurred.

2. The term "Actual Cash Value" means the amount it would cost to repair or replace Covered Property with material of like kind and quality, less allowance for deterioration and depreciation, including obsolescence.

3. The following applies when coverage is provided for townhouse buildings and structures:

- a. "Association of Townhouse Owners" as used in this KANSAS CHANGES provision includes every person or organization who is an owner of a fee simple title to a townhouse unit, for which insurance is provided by this policy.

## b. Control Of Property

The following will not affect this insurance if beyond the insured's direction or control:

- (1) Any act or neglect by any occupants or owners of the buildings; or
- (2) The insured's failure to comply with any warranty or condition with regard to any portion of the insured's premises.

If the insured violates a condition of this policy, the Company will not pay for loss or damage at the involved location. But the insured's coverage will continue for other locations at which the violation does not apply.

## c. The following property is excluded:

- Household and personal property, if any, unless owned by the Association of Townhouse Owners.

d. The Company will pay for covered loss or damage to buildings or structures to:

- (1) The Insurance Trustee for the benefit of each Townhouse Owner;
  - (2) The holder of each first mortgage; and
  - (3) The Association;
- as interests may appear.

#### 4. Appraisal

If, after a claim has been made, a dispute arises because the insured and the Company disagree on the value of the property or the amount of loss, either may make a written request for an appraisal of the loss. However, an appraisal will be made only if both the insured and the Company agree, voluntarily, to have the loss appraised. If so agreed, each party will select a competent and impartial appraiser. The two appraisers will select an umpire. If they cannot agree, either may request that selection be made by a judge of a court having jurisdiction. The appraisers will state separately the value of the property and amount of loss. If they fail to agree, they will submit their differences to the umpire. A decision agreed to by any two will be binding. Each party will:

- a. Pay its chosen appraiser; and
  - b. Bear the other expenses of the appraisal and umpire equally.
- If there is an appraisal, the Company will still retain its right to deny the claim.

#### 5. Concealment, Misrepresentation Or Fraud

The Company will not pay for any loss or damage under this policy if the insured or any other insured in relation to an insurance application, rating, claim or coverage under policy knowingly and with intent to defraud:

- a. Presents, causes to be presented or prepares with the knowledge or belief that it will be presented to or by an insurer, purported insurer, broker or any agent thereof, any written, electronic, electronic impulse, facsimile, magnetic, oral, or telephonic communication or statement which such person knows to contain materially false information concerning any material fact; or
- b. Conceals information concerning any material fact for the purpose of misleading.

#### KENTUCKY CHANGES

It is agreed that:

##### 1. It is agreed that:

- a. The Company will not pay for loss or damage arising out of any act committed:
    - (1) By or at the direction of any insured; and
    - (2) With the intent to cause a loss.
  - b. However, this exclusion will not apply to deny coverage to an innocent co-insured who did not cooperate in or contribute to the creation of the loss, provided the loss is otherwise covered under this policy:
    - (1) The loss arose out of a pattern of domestic violence and abuse; and
    - (2) The perpetrator of the loss is criminally prosecuted for the act causing the loss;
  - c. If the Company pays a claim pursuant to Paragraph 1.b., the Company's payment to the insured is limited to that insured's ownership interest in the property less any payments the Company first made to a mortgagee or other party with a legal secured interest in the property. In no event will the Company pay more than the Limit of Insurance.
2. If the Company pays an innocent co-insured for loss described in Paragraph 1.b., the rights of the innocent co-insured to recover damages from the perpetrator are transferred to the Company to the extent of the Company's payment. Following the loss, the innocent co-insured may not waive such rights to recover against the perpetrator of the domestic violence.

#### LOUISIANA CHANGES

##### 1. The following provision applies in the event this policy contains a Coinsurance provision:

The rate of premium for your policy is based on the use of a Coinsurance percentage that is shown in the Declarations.

##### 2. Transfer Of Rights Of Recovery Against Others To The Company

If any person or organization to or for whom the Company makes payment under this policy has rights to recover damages from another, those rights are transferred to the Company to the extent of its payment. That person or organization must do everything necessary to secure the Company's rights and must do nothing after loss to impair them. But the insured may waive their rights against another party in writing:

a. Prior to a loss to your Covered Property or Covered Income.

b. After a loss to your Covered Property or Covered Income only if, at time of loss, that party is one of the following:

- (1) Someone insured by this insurance;
- (2) A business firm:
  - (a) Owned or controlled by the insured; or
  - (b) That owns or controls the insured;
- (3) The insured's employee or employer;
- (4) The owner, lessor or tenant of the:
  - (a) Described premises; or
- (b) Premises where loss or damage occurred; including their employees, partners and stockholders; or
- (5) The insured's relative by blood or marriage.

If the insured waives their rights against another party in writing after a loss, the Company can recover from the insured any amount the insured received for that waiver. But the Company cannot recover more than the amount the Company paid the insured for that loss.

##### 3. If the loss or damage arises due to a catastrophic event for which a state of disaster or emergency is declared pursuant to law by civil officials, and the Covered Property is located in an area within the declaration, the insured must submit the proof of loss to the Company within 180 days; but this 180-day period does not commence as long as the declaration of disaster or emergency is in existence and civil authorities are denying the insured access to their property.

##### 4. With respects to coverage that applies on a replacement cost basis:

If the loss or damage arises due to a catastrophic event for which a state of disaster or emergency is declared pursuant to law by civil officials, and the Covered Property is located in an area within the declaration, the Company will pay on a replacement cost basis only if the repairs or replacement are completed within one year from the date of loss or damage or the issuance of applicable insurance proceeds, whichever is later, or as soon as reasonably possible thereafter

##### 5. It is agreed that:

a. The Company will not pay for loss or damage arising out of any act committed:

- (1) By or at the direction of any insured; and
- (2) With the intent to cause a loss;

b. With respect to loss or damage to Covered Property caused by fire, this exclusion does not apply to an insured(s) who did not set the fire or otherwise participate in the cause of the loss, provided the loss is otherwise covered under this policy.

c. If the Company pays a claim pursuant to Paragraph b., the Company's payment to any insured is limited to that insured's proportionate share of the policy proceeds, but not more than that insured's legal interest in the Covered Property that sustained the fire loss. Proportionate share will be determined based on the interests of all parties eligible to receive payment, including a mortgageholder or other party with a secured legal interest. The policy proceeds will not include any amount attributable to the interest of the insured(s) who set the fire or otherwise participated in the cause of the loss. In no event will the Company pay more in total than the Limit of Insurance on the Covered Property that sustained the fire loss.

d. The Company may apply reasonable standards of proof to claims for such loss.

##### 6. If the Company and the insured disagree on the value of the property or the amount of loss, either may make written demand for an appraisal of the loss. In this event, each party will select a competent and impartial appraiser. The two appraisers will select an umpire. If they cannot agree, either may request that selection be made by a judge of a court having jurisdiction. Each appraiser will state separately the value of the property and amount of loss. As respects any Time Element loss, the appraisers will state separately the amount of net income and operating expense or amount of loss. If they fail to agree, they will submit their differences to the umpire. Any outcome of the appraisal will not be binding on either party. Each party will:

- a. Pay its chosen appraiser; and
- b. Bear the other expenses of the appraisal and umpire equally.

If there is an appraisal, the Company will still retain its right to deny the claim.

##### 7. With respect to business income and extra expense coverage:

The Company will pay for the undisputed portion of the loss or damage within 30 days after the Company receives the satisfactory sworn proof of loss.

However, the Company has no duty to provide coverage under this policy if the failure to comply with the terms of this policy is prejudicial to the Company.

##### 8. It is agreed that:

a. With respect to loss or damage caused by fire, the Company does not provide coverage to the insured who, whether before or after the loss, has intentionally concealed or misrepresented any material fact or circumstance, with the intent to deceive, concerning:

- (1) This policy;
- (2) The Covered Property;
- (3) The insured's interest in the Covered Property; or
- (4) A claim under this policy.

b. With respect to loss or damage caused by a peril other than fire and with respect to all insureds covered under this policy, the Company provides no coverage for loss or damage if, whether before or after a loss, one or more insureds have intentionally concealed or misrepresented any material fact or circumstance, with the intent to deceive, concerning:

- (1) This policy;
- (2) The Covered Property;
- (3) The insured's interest in the Covered Property; or
- (4) A claim under this policy.

##### 9. With respect to any coverage for loss to property of others in the insured's care, custody or control, the Company has no duty to defend the insured against any "suit" seeking damages, if all the allegations of the "suit" are explicitly excluded by such insurance.

##### 10. With respect to any exclusion of fungus, wet or dry rot, and bacteria exclusion (or any variation), and any limited coverage for fungus, wet or dry rot, and bacteria (or any variation):

a. Any reference to bacteria means any type, kind or form of bacterium. This meaning also applies under any endorsement that modifies the aforementioned exclusion or limited coverage; and to use of the word bacteria in the exclusionary provisions under increased costs of construction coverage (or any variation), if any.

b. The fungus, wet or dry rot, and bacteria exclusion (or any variation), if any, is deleted and replaced by the following:

Presence, growth, proliferation, spread or activity of fungus, wet or dry rot or bacteria.

But if fungus, wet or dry rot or bacteria results in a Covered Cause of Loss, the Company will pay for the loss or damage caused by that Covered Cause of Loss; This exclusion does not apply:

- (1) When fungus, wet or dry rot or bacteria results from fire or lightning;
- (2) To the extent coverage is provided in the fungus, wet or dry rot, and bacteria limited coverage (or any variation), if any, with respect to loss or damage by a cause of loss other than fire or lightning; or
- (3) With respect to fungus, wet or dry rot or bacteria that is located on the portion of the Covered Property that must be repaired or replaced because of direct physical damage caused by a Covered Cause of Loss;

However, the exclusion shall continue to apply to the cost to test for, treat, contain, remove or dispose of fungus, wet or dry rot or bacteria beyond that which is required to repair or replace the Covered Property physically damaged by a Covered Cause of Loss, except to the extent that coverage is provided in the fungus, wet or dry rot, and bacteria (or any variation) limited coverage, if any.

c. The fungus, wet or dry rot, and bacteria limited coverage (or any variation), if any, is deleted and replaced by the following:

- (1) The coverage described in c.(2) and c.(6) only applies when the fungus, wet or dry rot or bacteria is the result of one or more of the following causes that occur during the policy period and only if all reasonable means were used to save and preserve the property from further damage at the time of and after that occurrence:

- (a) A Covered Cause of Loss other than fire or lightning; or
- (b) Flood, if flood coverage applies to the affected premises.

This limited coverage does not apply to lawns, trees, shrubs or plants which are part of a vegetated roof.

(2) The Company will pay for loss or damage by fungus, wet or dry rot or bacteria. As used in this limited coverage, the term loss or damage means,

- (a) Direct physical loss or damage to Covered Property caused by fungus, wet or dry rot or bacteria, including the cost of removal of the fungus, wet or dry rot or bacteria;

- (b) The cost to tear out and replace any part of the building or other property as needed to gain access to the fungus, wet or dry rot or bacteria; and
- (c) The cost of testing performed after removal, repair, replacement or restoration of the damaged property is completed, provided there is a reason to believe that fungus, wet or dry rot or bacteria are present;
- (3) The coverage described under c.(2) of this limited coverage is limited to \$15,000, unless a higher amount is otherwise provided in this policy. Regardless of the number of claims, this limit is the most the Company will pay for the total of all loss or damage arising out of all occurrences of Covered Causes of Loss (other than fire or lightning) and Flood which take place in a 12-month period (starting with the beginning of the present annual policy period). With respect to a particular occurrence of loss which results in fungus, wet or dry rot or bacteria, the Company will not pay more than a total of \$15,000, or a higher amount if otherwise provided in this policy, even if the fungus, wet or dry rot or bacteria continue to be present or active, or recur, in a later policy period.
- (4) The coverage provided under this limited coverage does not increase the applicable Limit of Insurance on any Covered Property. If a particular occurrence results in loss or damage by fungus, wet or dry rot or bacteria, and other loss or damage, the Company will not pay more, for the total of all loss or damage, than the applicable Limit of Insurance on the affected Covered Property.
- If there is covered loss or damage to Covered Property, not caused by fungus, wet or dry rot or bacteria, loss payment will not be limited by the terms of this Limited Coverage, except to the extent that "fungus," wet or dry rot or bacteria cause an increase in loss. Any such increase in the loss will be subject to the terms of this Limited Coverage.
- (5) The terms of this limited coverage do not increase or reduce the coverage, if at all, provided for water damage or collapse coverage.
- (6) The following provisions apply only if business income and/or extra expense coverage applies to the described premises and only if the suspension of operations satisfies all terms and conditions of the applicable business income and/or extra expense coverage:
- (a) If the loss which resulted in fungus, wet or dry rot or bacteria does not in itself necessitate a suspension of operations, but such suspension is necessary due to loss or damage to property caused by fungus, wet or dry rot or bacteria, then the Company's payment under business income and/or extra expense coverage is limited to the amount of loss and/or expense sustained in a period of not more than 30 days. The days need not be consecutive.
- (b) If a covered suspension of operations was caused by loss or damage other than fungus, wet or dry rot or bacteria but remediation of fungus, wet or dry rot or bacteria prolongs the period of restoration, the Company will pay for loss and/or expense sustained during the delay (regardless of when such a delay occurs during the period of restoration), but such coverage is limited to 30 days. The days need not be consecutive.

#### MAINE CHANGES

##### **1. Concealment, Misrepresentation Or Fraud**

The Company does not provide coverage to one or more insureds who, at any time:

1. Intentionally concealed or misrepresented a material fact;
2. Engaged in fraudulent conduct; or
3. Made a false statement;

relating to this insurance;

2. The Company will pay interest accruing after a judgment is entered in accordance with Maine law. The Company's duty to pay interest ends when the Company pays, offers to pay or deposits in court that part of the judgment which does not exceed the Company's Limit of Insurance for which coverage is provided under this policy.

This payment will not reduce the Limit of Insurance for which coverage is provided under this policy.

#### MARYLAND CHANGES

##### **1. Legal Action Against The Company**

In addition to any other requirement for bringing a legal action against the Company, the suit must be brought within three years from the date it accrues.

2. The Company does not provide coverage in any case of fraud by the insured, at any time, as it relates to this insurance. The Company also does not provide coverage if the insured or any other insured, at any time, intentionally conceals or misrepresents a material fact concerning:

- a. This insurance;
- b. The Covered Property;
- c. The insured's interests in the Covered Property; or
- d. A claim under this insurance.

#### MASSACHUSETTS CHANGES

##### **1. Vacancy Or Unoccupancy**

With respect to loss or damage caused by fire or lightning, if the building where loss or damage occurs, whether intended for occupancy by owner or tenant, has been vacant or unoccupied for more than:

- a. 60 consecutive days for residential premises of 3 units or less; or
- b. 30 consecutive days for all other premises;

immediately before that loss or damage, the Company will not pay for the loss or damage; A building is vacant when it does not contain enough business personal property to conduct customary operations.

##### **2. Mortgageholders**

The Company will pay for covered loss of or damage to real estate to each mortgageholder shown in the Declarations, or in an attached schedule, in the order of precedence, as interests may appear.

3. With regard to loss settlement on a replacement cost basis, the Company will not pay on a replacement cost basis for any loss or damage:

- a. Until the lost or damaged property is actually repaired or replaced:

- (1) On the described premises; or
- (2) At some other location in the Commonwealth of Massachusetts; and

- b. Unless the repairs or replacement are made within a reasonable time, but no more than 2 years after the loss or damage.

With respect to tenants' improvements and betterments, the following also apply:

- c. If the conditions in a; and b, above are not met, the value of tenants' improvements and betterments will be determined as a proportion of the insured's original cost, as set forth in the applicable Valuation condition; and

- d. The Company will not pay for loss or damage to tenants' improvements and betterments if others pay for repairs or replacement;

##### **4. The following provisions are added:**

- a. In spite of any provision of any general or special law:

- (1) The Company will not pay for loss or damage to real property caused by any Covered Cause of Loss if the amount of loss is \$5,000 or more unless the insured first submits to the Company a certificate of municipal liens from the collector of taxes of the city or town where the property is located;
- (2) The Company will pay to the city or town any amount outstanding on the certificate of municipal liens arising from the provisions of Massachusetts General Law Chapters 40, 59, 60, 80, 83 and 154, Sections 58B through 58F. The payment will not exceed the amount of loss payable under this policy. The Company will send the insured and the mortgageholder proof of the Company's payment to the city or town;
- (3) The claim of the city or town will have priority over the claim of any mortgageholder, assignee, the insured or any other interested party, except where otherwise provided by the laws of the United States;
- (4) The Company will not be liable to any city, town, mortgageholder, assignee, the insured or any other interested party for:
  - (a) Amounts paid to a city or town; or
  - (b) Amounts not paid to a city or town based upon a certificate showing that no municipal liens exist.
- (5) Paragraphs a.(1) through (4) above will not apply to any owner-occupied one- to four-family dwelling if the owner of the dwelling lived there when the claim for loss or damage arose.

- b. The Company will not pay any claim for:

- (1) Loss, damage or destruction of \$1,000 or more to a building or structure; or
- (2) Loss, damage or destruction, of any amount, that causes a building or structure to become:
  - (a) Dangerous to life or limb; or
  - (b) Unused, uninhabited or abandoned and open to the weather;
 as provided under Massachusetts General Law, Section 6 of Chapter 143; without giving at least 10 days' written notice before such payment to:
  - (3) The Building Commissioner or the appointed Inspector of Buildings; and
  - (4) The Board of Health or the Board of Selectmen of the city or town where the property is located;

- c. If at any time before the Company's payment, the city or town notifies the Company by certified mail of its intent to begin proceedings designed to perfect a lien under Massachusetts General Law:

- (1) Chapter 143, Section 3A or 9; or
- (2) Chapter 111, Section 127B;

the Company will not pay while the proceedings are pending. The proceedings must be started within 30 days after the Company receives the notice.

Any lien perfected under the Massachusetts General Laws referred to in c.(1), and c.(2) above will extend to the city or town and may be enforced by it against the proceeds of this policy.

- d. The Company will not be liable to any city, town, mortgageholder, assignee, the insured or any other interested party for:

- (1) Amounts paid to a city or town; or
  - (2) Amounts not paid to a city or town;
- under Provisions 4,b, and 4,c, above.

##### **5. The following is added:**

#### **Standard Fire Policy Provisions**

Your policy contains Legal Action Against Us, Appraisal and Cancellation Provisions. Massachusetts law requires that the Suit, Appraisal and Cancellation Provisions of the Massachusetts Standard Fire Policy supersede any similar provisions contained in your policy. Therefore, all Legal Action Against Us, Appraisal and Cancellation Provisions contained in your policy are void. The Suit, Appraisal and Cancellation Provisions of the Massachusetts Standard Fire Policy shall apply instead.

In consideration of the Provisions and Stipulations Herein or Added Hereto and of the Premium Specified in the Declarations, this Company, for the term of years specified in the Declarations from inception date (At 12:01 A.M., Standard Time) to expiration date (At 12:01 A.M., Standard Time) at location of property involved, to an amount not exceeding the amount(s) specified in the Declarations, does insure the insured named in the Declarations and legal representatives, to the extent of the actual cash value of the property at the time of loss, but in no event for more than the interest of the insured, against all Loss By Fire, Lightning And By Removal From Premises Endangered By The Perils Insured Against In This Policy. Except As Hereinafter Provided, to the property described in the Declarations while located or contained as described in this policy or pro rata for five days at each proper place to which any of the property shall necessarily be removed for preservation from the perils insured against in this policy, but not elsewhere;

Assignment of this policy shall not be valid except with the written consent of this Company.

This policy is made and accepted subject to the foregoing provisions and stipulations and those hereinafter stated, which are hereby made a part of this policy together with such other provisions, stipulations and agreements as may be added hereto, as provided in this policy.

#### **Concealment or Fraud**

This entire policy shall be void if, whether before or after a loss, the insured has willfully concealed or misrepresented any material fact or circumstance concerning this insurance or the subject thereof, or the interest of the insured therein, or in case of any fraud or false swearing by the insured relating thereto.

#### **Uninsurable And Excepted Property**

This policy shall not cover accounts, bills, currency, deeds, evidences of debt, money or securities; nor, unless specifically named hereon in writing, bullion or manuscripts.

#### **Perils Not Included**

This Company shall not be liable for loss by fire or other perils insured against in this policy caused, directly or indirectly, by (a) enemy attack by armed forces, including action taken by military, naval or air forces in resisting an actual or an immediately impending attack; (b) invasion; (c) insurrection; (d) rebellion; (e) revolution; (f) civil war; (g) usurped power;



(h) order of any civil authority except acts of destruction at the time of and for the purpose of preventing the spread of fire, provided that such fire did not originate from any of the perils excluded by this policy; (i) neglect of the insured to use all reasonable means to save and preserve the property at and after a loss, or when the property is endangered by fire in the neighboring premises; (j) nor shall this company be liable for loss by theft.

#### Other Insurance

Other insurance may be prohibited or the amount of insurance may be limited by endorsement attached hereto.

#### Conditions Suspending Or Restricting Insurance

Unless otherwise provided in writing added hereto this company shall not be liable for loss occurring (a) while the hazard is increased by any means within the control or knowledge of the insured; or (b) while the described premises, whether intended for occupancy by owner or tenant, are vacant or unoccupied beyond a period of sixty consecutive days, for residential premises of three units or less and thirty (30) consecutive days for all other premises; or (c) as a result of explosion or riot, unless fire ensue, and in that event for loss by fire only.

#### Other Perils Or Subjects

Any other peril to be insured against or subject of insurance to be covered in this policy shall be by endorsement in writing hereon or added hereto.

#### Added Provisions

The extent of the application of insurance under this policy and of the contribution to be made by this company in case of loss, and any other provision or agreement not inconsistent with the provisions of this policy, may be provided for in writing added hereto, but no provision may be waived except such as by the terms of this policy is subject to change.

#### Waiver Provisions

No permission affecting this insurance shall exist, or waiver of any provision be valid, unless granted herein or expressed in writing added hereto. No provision, stipulation or forfeiture shall be held to be waived by any requirement or proceeding on the part of this company relating to appraisal or to any examination provided for herein.

#### Cancellation Of Policy

This policy shall be cancelled at any time at the request of the insured, in which case this company shall, upon demand and surrender of this policy, refund the excess of paid premium above the customary short rates for the expired time. This policy may be cancelled at any time by this company by giving to the insured a five days written notice of cancellation, and to the mortgagee to whom this policy is payable twenty days written notice of cancellation except where the stated reason for cancellation is nonpayment of premium where, in such instance, this policy may be cancelled at any time by this company by giving to the insured a ten days written notice of cancellation, and the mortgagee a twenty days written notice of cancellation, with or without tender of the excess paid premium above the pro rata premium for the expired time, which excess, if not tendered, shall be refunded on demand. Notice of cancellation shall state that said excess premium (if not tendered) will be refunded on demand and shall state or be accompanied by a statement of the specific reason or reasons for such cancellation. After this policy has been in effect for sixty days, or after sixty days from any anniversary date, no notice of cancellation shall be effective unless it is based on the occurrence, after the effective date of the policy, of one or more of the following: (1) nonpayment of premium; (2) conviction of a crime arising out of acts increasing the hazard insured against; (3) discovery of fraud or material misrepresentation by the insured in obtaining the policy; (4) discovery of willful or reckless acts or omissions by the insured increasing the hazard insured against; (5) physical changes in the property insured which result in the property becoming uninsurable; or (6) a determination by the commissioner that continuation of the policy would violate or place the insurer in violation of the law. Where the stated reason is nonpayment of premium, the insured may continue the coverage and avoid the effect of the cancellation by payment at any time prior to the effective date of cancellation.

#### Mortgagee Interests And Obligations

Notwithstanding any other provisions of this policy, if this policy shall be made payable to a mortgagee of the covered real estate, no act or default of any person other than such mortgagee or his agent or those claiming under him, whether the same occurs before or during the term of this policy, shall render this policy void as to such mortgagee nor affect such mortgagee's right to recover in case of loss on such real estate; provided, that the mortgagee shall on demand pay according to the established scale of rate for any increase of risk not paid for by the insured; and whenever this company shall be liable to a mortgagee for any sum for loss under this policy for which no liability exists as to the mortgagor, or owner, and this company shall elect by itself, or with others, to pay the mortgagee the full amount secured by such mortgage, then the mortgagee shall assign and transfer to the company interested, upon such payment, the said mortgage together with the note and debt thereby secured.

#### Pro Rata Liability

This company shall not be liable for a greater proportion of any loss than the amount hereby insured shall bear to the whole insurance covering the property against the peril involved.

#### Requirements In Case Loss Occurs

The insured shall give immediate written notice to this company of any loss, protect the property from further damage, forthwith separate the damaged and undamaged personal property, put it in the best possible order, furnish a complete inventory of the destroyed and damaged property, showing in detail the quantity, description, actual cash value and amount of loss claimed; and the insured shall forthwith render to this company a signed, sworn statement in proof of loss which sets forth to the best knowledge and belief of the insured the following: the time and cause of the loss, the interest of the insured and of all others in the property, the actual cash value of each item thereof and the amount of loss thereto, all encumbrances thereon, all other contracts of insurance, whether valid or not, covering any of said property, any changes in the title, use, occupancy, location, possession or exposures of said property, since the issuing of this policy, by whom and for what purpose any building herein described and the several parts thereof were occupied at the time of loss and whether or not it then stood on leased ground, and shall furnish a copy of all the descriptions and schedules in all policies and detailed estimates for repair of the damage.

The insured, as often as may be reasonably required, shall exhibit to any person designated by this company all that remains of any property herein described, and submit to examinations under oath by any person named by this company, and subscribe the same; and as often as may be reasonably required, shall produce for examination all books of account, bills, invoices and other vouchers, or certified copies thereof if originals be lost, at such reasonable time and place as may be designated by this company or its representative, and shall permit extracts and copies thereof to be made.

#### When Loss Payable

In case of any loss or damage, the company within thirty days after the insured shall have submitted a statement, as provided in the preceding clause, shall either pay the amount for which it shall be liable, which amount if not agreed upon shall be ascertained by award of referees as hereinafter provided, or replace the property with other of the same kind and

goodness, or it may, within fifteen days after such statement is submitted, notify the insured of its intention to rebuild or repair the premises, or any portion thereof separately covered by this policy, and shall thereupon enter upon said premises and proceed to rebuild or repair the same with reasonable expedition. It is moreover understood that there can be no abandonment of the property described to the company, and that the company shall not in any case be liable for more than the sum insured, with interest thereon from the time when the loss shall become payable, as provided above. The company shall be liable for the payment of interest to the insured at a rate of one percent over the prime interest rate on the agreed figure commencing thirty days after the date an executed proof of loss for such figure is received by the company, said interest to continue so long as the claim remains unpaid.

#### Appraisal

In case of loss under this policy and a failure of the parties to agree as to the amount of loss, it is mutually agreed that the amount of such loss shall be referred to three disinterested men, the company and the insured each choosing one out of three persons to be named by the other, and the third being selected by the two so chosen, and the award in writing by a majority of the referees shall be conclusive and final upon the parties as to the amount of loss or damage, and such reference, unless waived by the parties, shall be a condition precedent to any right of action in law or equity to recover for such loss; but no person shall be chosen or act as a referee, against the objection of either party, who has acted in a like capacity within four months.

#### Suit

No suit or action against this company for the recovery of any claim by virtue of this policy shall be sustained in any court of law or equity in this commonwealth unless commenced within two years from the time the loss occurred; provided, however, that if, within said two years, in accordance with the provisions of the preceding paragraph, the amount of the loss shall have been referred to arbitration after failure of the parties to agree thereon, the limitation of time for bringing such suit or action shall in no event be less than ninety days after a valid award has been made upon such reference or after such reference or award has been expressly waived by the parties. If suit or action upon this policy is enjoined or abated, suit or action may be commenced at any time within one year after the dissolution of such injunction, or the abatement of such suit or action, to the same extent as would be possible if there was no limitation of time provided herein for the bringing of such suit or action.

#### Subrogation

This company may require from the insured an assignment of all right of recovery against any party for loss to the extent that payment therefor is made by this company.

#### MICHIGAN CHANGES.

1. If a municipality has elected to apply the provisions of 1998 Michigan Public Act 217, a part of the Company's payment for fire, explosion, vandalism, windstorm or hail, or riot or civil commotion loss or damage to the insured's covered real property in that municipality will be withheld if the loss or damage is subject to the provisions of the Act. The withheld amount will be paid either to:
  - a. The municipality;
  - b. The insured and the mortgageholder, if any; or
  - c. With the insured's consent, the licensed contractor hired by the insured to perform repair, replacement, or removal services on the lost or damaged real property;

according to the provisions of Public Act 217. The Company will notify the insured, any mortgageholder and the municipality of any loss subject to the provisions of Public Act 217. If a municipality has elected to apply the provisions of MICH. COMP. LAWS § 500.3011, any further payment for claims for loss or damage to the insured's Covered Property caused by fire or explosion of \$2,000 or more will be withheld if the insured has failed to submit a required report to the fire or law enforcement authority designated by the municipality.

2. With respect to coverage for loss to property of others in the insured's care, custody or control, if any:
  - a. The Company will pay, with respect to any claim or any suit against the insured it defends, prejudgment interest awarded against the insured on the part of the judgment the Company pays. If the Company makes an offer to pay the Limit of Insurance, the Company will pay any prejudgment interest based on that period of time after the offer.
  - b. The following provisions are added to for loss to property of others in the insured's care, custody or control, if any, relating to duties and replace any provisions to the contrary:

If a claim is made or suit is brought against the insured, the insured must see to it that the Company receives prompt notice of the claim or suit.  
Notice given by or on behalf of the insured to the Company's authorized agent, with particulars sufficient to identify the insured, shall be considered notice to the Company.  
Failure to:

- 1) Give the Company prompt notice of an accident, claim or suit; or
- 2) Immediately send the Company copies of demands, notices, summonses or legal papers received in connection with a claim or suit;

shall not invalidate a claim made by the insured if it shall be shown that it was not reasonably possible to give the Company prompt notice or to immediately send the Company copies, and that the insured gave the Company notice and sent it copies as soon as was reasonably possible.

3. Legal Action Against The Company

The time for commencing an action against the Company is tolled from the time the insured notifies the Company of the loss or damage until the Company formally denies liability for the claim.

4. Appraisal

If the Company and insured disagree on the value of the property or the amount of loss, either may make written demand for an appraisal of the loss. In this event, each party will select a competent and independent appraiser. The two appraisers will select a competent and impartial umpire. If they cannot agree, either may request that selection be made by a judge of a court having jurisdiction. As respects physical loss or damage to covered property, the appraisers will state separately the value of the property and amount of loss. As respects any Time Element loss, the appraisers will state separately the amount of net income and operating expense or amount of loss. If the appraisers fail to agree, they will submit their differences to the umpire. A decision agreed to by any two will be binding. Each party will:

- a. Pay its chosen appraiser; and
  - b. Bear the other expenses of the appraisal and umpire equally.
- If there is an appraisal, the Company will still retain its right to deny the claim.

#### MINNESOTA CHANGES

- 1., Provided the insured has complied with all the terms of this policy, the Company will pay for covered loss or damage within 5 business days after the Company has received the proof of loss and:
  - a. The Company has reached agreement with the insured or, in the event the Company uses an independent claims adjuster, the Company has received the agreement and the insured has satisfied the conditions of the agreement, if any; or
  - b. An appraisal award has been made.
2. The Company agrees that in the event of a total loss of a covered building or structure, the value of the building or structure reported by the insured represents its value.
3. Examination of The Insured's Books And Records  
The Company may examine and audit the insured's books and records as they relate to this policy at any time during the policy period and up to one year afterward.
4. Concealment, Misrepresentation Or Fraud  
The Company does not provide coverage to the insured who has:
  - a. Before a loss, willfully; or
  - b. After a loss, willfully and with intent to defraud;
 concealed or misrepresented any material fact or circumstances concerning:
  - (1) This policy;
  - (2) The Covered Property;
  - (3) That insured's interest in the Covered Property; or
  - (4) A claim under this policy.
5. With respect to loss or damage caused by a Covered Cause of Loss other than fire, if any, the Company will not pay for any loss or damage if any insured has:
  - a. Before a loss, willfully; or
  - b. After a loss, willfully and with intent to defraud;
 concealed or misrepresented any material fact or circumstances concerning:
  - (1) This policy;
  - (2) The Covered Property;
  - (3) That insured's interest in the Covered Property; or
  - (4) A claim under this policy.
6. With respect to the perils of fire and lightning, references in this policy to direct physical loss or damage are construed to mean all loss or damage caused by fire and any damage caused by lightning.
7. Any requirement to notify the Company of loss or damage can be satisfied by notifying the Company's agent, subject to all other terms of such requirement. Further, if a claim is made or suit is brought against the insured, the requirement to provide the Company with prompt notice of the claim or suit can be satisfied by written or oral notification.
8. It is agreed that:
  - a. Any provision requiring the insured as soon as possible to give the Company a description of how, when and where the loss or damage occurred is deleted.
  - b. As often as the Company reasonably requires, the insured shall:
    - (1) Permit the Company to inspect the property. Also, permit the Company to take samples of damaged and undamaged property for inspection, testing and analysis;
    - (2) Provide the Company with records and documents reasonably related to the loss, or certified copies if the originals are lost, and permit the Company to make copies.
  - c. The insured shall send the Company, within 60 days after its request, a signed, sworn proof of loss containing the following information the Company requires to investigate the claim:
    - (1) A description of how and when the loss or damage occurred;
    - (2) The value of the property, except in the case of a total loss of an insured building;
    - (3) The interest of the insured and all others in the property; and
    - (4) Other insurance which may cover the loss or damage.
 The Company will supply the insured with the necessary forms.
  - d. After the Company informs an insured:
    - (1) Of the right to counsel; and
    - (2) That an insured's answers may be used against the insured in later civil or criminal proceedings;
 the Company may examine any insured under oath, while not in the presence of any other insured and at such times as may be reasonably required, about any matter relating to this insurance or the claim. In the event of an examination, an insured's answers must be signed.
9. Mortgageholders
  - a. The term "mortgageholder" includes trustees and contract for deed vendors.
  - b. If the Company denies the insured's claim because of the insured's acts or because the insured has failed to comply with the terms of this policy, the mortgageholder will still have the right to receive loss payment if the mortgageholder:
    - (1) Pays any premium due under this policy at the Company's request if the insured has failed to do so;
    - (2) Submits a signed, sworn proof of loss within 60 days after receiving notice from the Company of the insured's failure to do so.
 All of the terms of this policy will then apply directly to the mortgageholder.
  - c. The Company will notify the mortgageholder of changes to this policy that result in a substantial reduction of coverage to the mortgaged property.
10. Transfer Of Rights Of Recovery Against Others To The Company
  - a. If any person or organization to or for whom the Company makes payment under this policy has rights to recover damages from another, those rights are transferred to the Company to the extent of its payment. That person or organization must do everything necessary to secure the Company's rights and must do nothing after loss to impair them. However, the Company's rights do not apply against:
    - (1) An insured; or
    - (2) Any person or organization insured under another policy which was issued by the Company and responds to the same loss;
 provided the loss was not intentionally caused by such insureds.
  - b. The insured may waive their rights against another party in writing:
    - (1) Prior to a loss to the insured's Covered Property or Covered Income;
    - (2) After a loss to the insured's Covered Property or Covered Income only if, at the time of loss, that party is one of the following:

- (a) Someone insured by this insurance, unless the loss was caused intentionally by such insured;
- (b) A business firm:
  - (i) Owned or controlled by the insured; or
  - (ii) That owns or controls the insured; or
- (c) The insured's tenant.

This will not restrict the insured's insurance.

11. With respect to coverage for loss to property of others in the insured's care, custody or control:
  - a. The Company's rights do not apply against any person or organization insured under this or any other policy the Company issues with respect to the same loss, provided the loss was not intentionally caused by such insureds.
  - b. The Company will pay, with respect to any claim or any suit against the insured it defends, prejudgment interest awarded against the insured on the part of the judgment the Company pays. If the Company makes an offer to pay the Limit of Insurance, the Company will pay any prejudgment interest based on that period of time after the offer.
  - c. The Company does not provide coverage to the insured who has:
    - 1) Before a loss, willfully; or
    - 2) After a loss, willfully and with intent to defraud;
 concealed or misrepresented any material fact or circumstance relating to this insurance.
  - d. Bankruptcy, insolvency or dissolution of the insured or the insured's estate will not relieve the Company of its obligations under this policy, and in case an execution against the insured on a final judgment is returned unsatisfied, then such judgment creditor shall have a right of action on this policy against the Company to the same extent that the insured would have, had the insured paid the final judgment.
12. With respect to an appraisal, reference to a court having jurisdiction means a court of record in the state where the described premises at which the loss occurred are located,

#### MISSISSIPPI CHANGES

##### Legal Action Against The Company

No one may bring suit against the Company under this policy unless:

- a. There has been full compliance with all of the terms of this policy; and
- b. The action is brought within 3 years after the date on which the direct physical loss or damage occurred;

#### MISSOURI CHANGES

1. If covered partial loss or damage to Covered Property is caused by or results from fire, at the insured's option, the Company will either:
  - a. Pay the insured an amount of money equal to the damage done; or
  - b. Repair the damage, so that the property is in as good a condition as before the fire.
 But the Company will not pay more than the Limit of Insurance.
2. In the event of loss or damage covered under this policy, the Company will give the insured notice, within 15 working days after the Company receives a properly executed proof of loss, that the Company:
  - a. Accepts the insured's claim;
  - b. Denies the insured's claim; or
  - c. Needs more time to determine whether the insured's claim should be accepted or denied.
 If the Company denies the insured's claim, such notice will be in writing, and will state any policy provision, condition or exclusion used as a basis for the denial.  
 If the Company needs more time to determine whether the insured's claim should be accepted or denied, the written notice will state the reason(s) why more time is needed.  
 If the Company has not completed its investigation, the Company will notify the insured again in writing, within 45 days after the date the initial notice is sent informing the insured that the Company needs more time to determine whether the insured's claim should be accepted or denied and thereafter every 45 days. The written notice shall state why more time is needed to investigate the insured's claim.

##### 3. Appraisal

If the Company and insured disagree on the value of the property or the amount of loss, either may make written demand for an appraisal of the loss. In this event, each party will select a competent and impartial appraiser and notify the other of the appraiser selected within 20 days of the written demand for appraisal. The two appraisers will select an umpire. If they cannot agree upon an umpire within 15 days, then, upon the insured's or Company's request, an umpire shall be selected by a judge of a court of record in the state and county (or city if the city is not within a county) in which the property covered is located. As respects physical loss or damage to Covered Property, the appraisers will state separately the value of the property and amount of loss. As respects any Time Element loss, the appraisers will state separately the amount of net income and operating expense or amount of loss. If the appraisers fail to agree, they will submit their differences to the umpire. The umpire shall make an award within 30 days after the umpire receives the appraisers' submissions of their differences. A decision agreed to by any two will be binding.

Each party will:

- a. Pay its chosen appraiser; and
- b. Bear the other expenses of the appraisal and umpire equally.

If there is an appraisal, the Company will still retain its right to deny the claim.

##### 4. Legal Action Against The Company

No one may bring a legal action against the Company under this policy unless:

- a. There has been full compliance with all of the terms of this policy; and
- b. The action is brought within 10 years after the date on which the direct physical loss or damage occurred.

This Paragraph 4, does not apply to any coverage for loss to property of others in the insured's care, custody or control.

##### 5. The following exclusion and related provisions are added:

- a. The Company will not pay for loss or damage arising out of any act an insured commits or conspires to commit with the intent to cause a loss.  
 In the event of such loss, no insured is entitled to coverage, even insureds who did not commit or conspire to commit the act causing the loss.

- b. However, the foregoing exclusion will not apply to deny coverage to an innocent co-insured who did not cooperate in or contribute to the creation of the loss, provided the loss is otherwise covered under this policy and the loss arose out of domestic violence. Such coverage will be provided only if the innocent co-insured files a police report and completes a sworn affidavit indicating both:
- (1) The cause of the loss; and
  - (2) A pledge to cooperate in any criminal prosecution of the person committing the act causing the loss.
- c. If the Company pays a claim pursuant to Paragraph b. above, the Company's payment to the innocent co-insured will be limited to that insured's ownership interest in the property as reduced by any payment to a mortgagee or other secured interest; however, the Company shall not be required to make any subsequent payment for any loss for which the innocent co-insured has received payment. In no event will the Company pay more than the Limit of Insurance.
- d. If the Company pays an innocent co-insured for loss arising out of an act of domestic violence by another insured, the rights of the innocent co-insured to recover damages from the abuser are transferred to the Company to the extent of the Company's payment. Following the loss, the innocent co-insured may not waive such rights to recover against the abuser.
6. With respect to Debris Removal coverage (or any variation), if any, and Pollutant Clean Up And Removal coverage (or any variation), if any, if the insured fails to report the expenses to the Company within the required timeframe, if any, of the specified occurrence, such failure will not invalidate a claim under Debris Removal coverage (or any variation) and Pollutant Clean Up And Removal coverage (or any variation) unless such failure operates to prejudice the Company's rights.
7. When Replacement Cost loss settlement applies, with respect to any requirement to notify the Company of the insured's intent to submit an additional claim (for the difference between the actual cash value and replacement cost) within a specified timeframe after the loss or damage occurs, if the insured fails to notify the Company of their intent within the specified timeframe, such failure will not invalidate the claim unless such failure operates to prejudice the Company's rights.
8. The following provisions are added:
- a. **Transfer By Beneficiary Deed**
- If the insured conveys real property insured under this policy to a person (known as a grantee/beneficiary) designated under a beneficiary deed, which has been properly recorded prior to the insured's death, that person will have the insured's rights and duties with respect to the insured real property, but only for the period from the date of the insured's death until the first of the following occurs:
- (1) A period of 30 days from the date of the insured's death;
  - (2) The date that alternative coverage is obtained on the insured's property; or
  - (3) The end of the policy period as shown in the Declarations.
- b. **Transfer By Other Means Following Death**
- If the insured dies, their rights and duties will be transferred to their legal representative but only while acting within the scope of duties as their legal representative. Until the insured's legal representative is appointed, anyone having proper temporary custody of the insured's property will have the insured's rights and duties, but only with respect to that property. The insured's rights and duties under this policy may not be transferred without the Company's written consent except in the case of death of an individual Named Insured.
9. In this policy, any exclusion, limitation or other provision relating to pollutants, or any amendment to or replacement of such exclusions, limitations or other provisions, applies whether or not the irritant or contaminant has any function in or on the insured's business, operations, premises, site or location.
10. If changes are made to this policy after the beginning of the current policy period, and such changes require an additional premium, the additional premium will be pro-rated to recognize the actual period of coverage.
11. **Changes To A Covered Location**
- If changes are made to a location that was covered at the beginning of the current policy period, and those changes require additional premium (e.g., an increase in the limit of insurance), the Company will calculate the additional premium using the rates and rules which were in effect on the effective date of the current policy period.
12. **Additional Locations**
- a. If a location(s) is added to the policy after the beginning of the current policy period, the Company will calculate the premium for that location(s), including all coverages, options and causes of loss at that location(s), using the rates and rules which are in effect when the location(s) is added.
- b. If changes are subsequently made to a location(s) described in 12.a. above, and those changes require additional premium, the Company will calculate the additional premium using the rates and rules which were in effect when the location(s) was added.
13. Any additional premium calculated in accordance with this endorsement will be charged in full, whether or not the Company applied a policywriting minimum premium in developing the premium that was charged at the beginning of the current policy period.

#### MONTANA CHANGES

1. **Concealment, Misrepresentation Or Fraud**
- A. The Company will not pay for loss or damage in a case of:
1. Concealment or misrepresentation of a material fact; or
  2. Fraud;
- committed by the insured or any other insured, whether before or after the loss and relating to coverage of the loss under this policy.
- B. The Company will not pay for any loss or damage in any case if:
1. Concealment or misrepresentation of a material fact; or
  2. Fraud;
- is committed by the insured or any other insured in the application for this policy.
2. **Conformity With Montana Statutes**
- The provisions of this policy conform to the minimum requirements of Montana law and control over any conflicting statutes of any state in which the insured resides on or after the effective date of this policy. Any provision of this policy (including endorsements which modify the policy) that does not conform to the minimum requirements of a Montana statute is amended to conform to such statute.
3. **Mortgageholders**
- a. If the Company denies the insured's claim in accordance with the provisions of this policy, that denial will not apply to a valid claim of the mortgageholder, if the mortgageholder:

- (1) Pays any premium due under this policy at the Company's request if the insured has failed to do so;
  - (2) Submits a signed, sworn proof of loss within 60 days after receiving notice from the Company of the insured's failure to do so; and
  - (3) Has notified the Company of any change in ownership, occupancy or substantial change in risk known to the mortgageholder.
- All of the terms of this policy will then apply directly to the mortgageholder.
- b. If the Company pays the mortgageholder for any loss or damage and denies payment to the insured in accordance with the provisions of this policy:
- (1) The mortgageholder's rights under the mortgage will be transferred to the Company to the extent of the amount the Company pays; and
  - (2) The mortgageholder's right to recover the full amount of the mortgageholder's claim will not be impaired.

At the Company's option, the Company may pay to the mortgageholder the whole principal on the mortgage plus any accrued interest. In this event, the insured's mortgage and note will be transferred to the Company and the insured will pay their remaining mortgage debt to the Company.

#### NEBRASKA CHANGES

1. **Appraisal**
- If the Company and insured disagree on the value of the property or the amount of loss, both parties may agree in writing to an appraisal of the loss and to be bound by the results of that appraisal. If both parties so agree, then each party will select a competent and impartial appraiser. The two appraisers will select an umpire. If they cannot agree, either may request that selection be made by a judge of a court having jurisdiction. As respects physical loss or damage to Covered Property, the appraisers will state separately the value of the property and amount of loss. As respects any Time Element loss, the appraisers will state separately the amount of net income and operating expense or amount of loss. If the appraisers fail to agree, they will submit their differences to the umpire. A decision agreed to by any two will be binding. Each party will:
- a. Pay its chosen appraiser; and
  - b. Bear the other expenses of the appraisal and umpire equally.
- If there is an appraisal, the Company will still retain its right to deny the claim.
2. If this policy covers any real property in Nebraska against loss by fire, tornado, windstorm, lightning or explosion and the property insured is wholly destroyed, without criminal fault on the part of the insured or their assignee, the amount of the insurance written on such real property shall be taken conclusively to be the true value of the property insured and the true amount of loss and measure of damages. The applicable amount of insurance written on such real property shall be the value reported to the Company by the insured on the statement of values prior to loss.
3. **Misrepresentation Or Breach Of Condition Or Warranty**
- a. A misrepresentation or warranty made by the insured or on their behalf in the negotiation of or application for this policy will void this policy if:
- (1) It is material;
  - (2) It is made with the intent to deceive;
  - (3) The Company relies on it; and
  - (4) The Company is deceived to its injury.
- b. A breach of warranty or condition will void the policy if such breach exists at the time of loss and contributes to the loss.
4. The Company will not pay for loss or damage arising out of any act committed:
- a. By or at the direction of any insured; and
  - b. With the intent to cause a loss.
- However, this exclusion does not apply to deny coverage to an innocent insured to the extent of that insured's legal interest (but not exceeding the applicable Limit of Insurance) in Covered Property that has sustained damage if the damage arises out of abuse of the innocent insured by a current or former family member or household member and is otherwise covered under this policy. The Company may apply reasonable standards of proof to claims for such damage.
5. If the Company pays an innocent coinsured subject of abuse for loss arising out of abuse by another insured who is a current or former family member or household member, the rights of the innocent coinsured to recover damages from the abuser are transferred to the Company to the extent of the Company's payment. The innocent coinsured may not waive such rights to recover against the abuser.
6. In Paragraphs 4. and 5. above, "abuse" means attempting to cause or intentionally, knowingly, or recklessly causing damage to property so as to intimidate or attempt to control the behavior of another person, including a minor child.
7. The Company will give the insured notice, within 15 days after the Company receives settlement information or a properly executed proof of loss, that the Company:
- a. Accepts the insured's claim;
  - b. Denies the insured's claim; or
  - c. Needs more time to investigate the insured's claim.
- If the Company denies the insured's claim, the denial will be given to the insured in writing. If the Company needs more time to investigate the insured's claim, the Company will provide an explanation for its need for more time. The Company will continue to notify the insured again in writing, at least every 30 days, of the status of the investigation and of the continued time needed for the investigation. However, if the claim is in litigation, the requirements pertaining to notice of the status of the Company's investigation do not apply.
8. In the Company's determination of the actual cash value of Covered Property at the time of loss or damage, the Company will take into account factors such as depreciation, deterioration and obsolescence.

#### NEVADA CHANGES

##### **Concealment, Misrepresentation Or Fraud**

- The Company will not pay for any loss or damage in any case of:
- a. Concealment or misrepresentation of a material fact; or
  - b. Fraud;
- committed by an insured at any time and relating to a claim under this policy.

#### NEW HAMPSHIRE CHANGES

##### **1. Concealment, Misrepresentation Or Fraud**

The Company does not provide coverage to one or more insureds who, at any time:



- a. Intentionally concealed or misrepresented a material fact;  
 b. Engaged in fraudulent conduct; or  
 c. Made a false statement;  
 relating to this insurance.
2. Other Insurance On Buildings
- a. The Insured is permitted to have other insurance that covers buildings at the premises described in the Declarations. The total Limit of Insurance on any building, including the Limit of Insurance for this policy, is limited to the amount shown in the Schedule below.
- b. If the Insured has other insurance on any building exceeding the amount shown in the Schedule below, coverage under this policy will be automatically suspended for that building. Suspension will occur regardless of whether the Insured can collect on that other insurance or not.
3. Policy Value
- a. If a building insured for a specified amount, whether under a separate policy or under a policy also covering other buildings, is totally destroyed by fire or lightning without criminal fault on the part of the Insured or his assignee, the sum for which such buildings are insured shall be taken to be the value of the Insured's interest therein unless overinsurance thereon was fraudulently obtained.
- b. If an insured building is only partially destroyed by fire or lightning, the Insured shall be entitled to the actual loss sustained, not exceeding the sum insured.
- c. Nothing contained in Paragraph 3.a. or 3.b. of this section shall be construed as prohibiting the use of coinsurance, or agreed amount.
- d. When a building is insured not for a specified amount but under a blanket form with one amount covering two or more buildings or one or more buildings and personal property, the provisions of Paragraph 3.a. of this section shall not apply.

## SCHEDULE

Prem #	Bldg #	Total Limit of Insurance Permitted On The Building

## NEW JERSEY CHANGES

1. The Company will not pay for loss or damage arising out of any act committed:  
 a. By or at the direction of any insured; and  
 b. With the intent to cause a loss.
2. However, the foregoing exclusion will not apply to deny payment to a co-insured who did not cooperate in or contribute to the creation of the loss if the loss arose out of domestic violence. To the extent that the Concealment, Misrepresentation Or Fraud Condition conflicts with the provisions of this Paragraph 2., this paragraph 2. will apply.
3. If the Company pays a claim pursuant to Paragraph 2. above, the Company's payment to the insured is limited to that insured's insurable interest in the property. In no event will the Company pay more than the Limit of Insurance.
4. If the Company pays a co-insured for loss arising out of an act of domestic violence by another insured, the rights of the co-insured, who did not cooperate in or contribute to the creation of the loss, to recover damages from the perpetrator of domestic violence are transferred to the Company to the extent of its payment. Following the loss, the co-insured who did not cooperate in or contribute to the loss may not waive such rights to recover against the perpetrator of domestic violence.

## NEW MEXICO CHANGES

1. Provisions 2., 3., and 4. below apply to a claim for direct physical loss or damage to Covered Property, provided that:  
 a. The claim is for loss or damage that results from a catastrophe declared by the Superintendent of Insurance; and  
 b. The catastrophic event is a Covered Cause of Loss.
2. The following provisions are added and replace any similar provision to the contrary:  
 a. If the Insured reported its claim to the Company:  
 (1) Before the catastrophe was declared, the Company will reach agreement with the Insured on the amount of loss within 90 days after the date the catastrophe was declared;  
 (2) After the catastrophe was declared, the Company will reach agreement with the Insured on the amount of loss within 90 days after the date on which the Insured reported the claim.
- b. However, the time periods specified in a. above will be extended by the period of time taken to resolve the following situations:  
 (1) The Company suspects the claim is fraudulent and commences an investigation to make such a determination;  
 (2) The Insured does not provide the necessary information regarding the nature of the claim, following the Company's request for such information; or  
 (3) The Insured filed suit against the Company in connection with the claim before expiration of the applicable 90-day period.
3. All other provisions of this policy continue to apply in the event of a catastrophe, including the Legal Action Against The Company and Appraisal conditions.
4. This does not invalidate the Company's right to deny the Insured's claim, nor the right of either party to seek judgment in a court having jurisdiction.
5. With respect to coverage provided under this policy for one through four family residential buildings which the Insured owns and leases to others for use as a residence the Replacement Cost Optional Coverage applies. For such one through four family residential buildings, the following applies with respect to the Replacement Cost Optional Coverage:  
 a. The Company will pay, subject to the Limit of Insurance, no more than the actual cash value of the damaged residential building until the actual repair or replacement is complete. However, if the actual cash value amount is insufficient to initiate repair or replacement of the damaged residential building, the Company will advance to the Insured the amount necessary for the Insured to initiate such repair or replacement. After the payment of actual cash value or such greater amount as described above, the Company will advance further amounts as necessary to continue the repair or replacement. The total of all advances and other payments hereunder will not exceed the amount allowed under the Replacement Cost Optional Coverage, nor will that total exceed the amount of loss payment the Company agrees upon.  
 Under this loss settlement procedure, the following special provisions apply:  
 (1) The Insured shall promptly forward to the Company evidence of the agreement with the party repairing or replacing the damaged residential building showing the cost and estimated completion date of the repairs to the building;  
 (2) The Company will send to the Insured the balance, if any, of the loss payment previously agreed upon when the Insured forwards to the Company evidence of the completion of the repairs to the damaged residential building.
- b. The Insured may disregard the replacement cost optional coverage provisions and make claim under this policy, for loss or damage to a residential building, on an actual

- cash value basis. The Insured may then make claim within 180 days after loss for any additional liability according to the provisions stated in Paragraph a.; above;
6. The following exclusion and related provisions are added and replace any similar condition to the contrary:  
 a. The Company will not pay for loss or damage arising out of any act committed:  
 (1) By or at the direction of any Insured; and  
 (2) With the intent to cause a loss;  
 b. However, this exclusion will not apply to deny coverage to an innocent coinsured victim of domestic abuse who did not cooperate in or contribute to the creation of the loss provided that the loss is otherwise covered under this policy and is proximately related to and in furtherance of domestic abuse.
- c. If the Company pays a claim pursuant to Paragraph 6.b.; above, the Company's payment to the Insured is limited to the extent of that person's interest in the property. In no event will the Company pay more than the Limit of Insurance.
7. The following provision is added and replaces any similar provision to the contrary:  
 If the Company pays an innocent coinsured victim of domestic abuse for loss arising out of an act of domestic abuse by another insured, the rights of the innocent coinsured to recover damages from the perpetrator of the domestic abuse are transferred to the Company to the extent of its payment; Following the loss, the innocent coinsured may not waive such rights to recover against the perpetrator of the domestic abuse;
8. In Paragraphs 6. and 7. above, domestic abuse means attempting to cause or intentionally, knowingly or recklessly causing damage to property for the purpose of intimidating or attempting to control the behavior of another person, including a minor;

## NEW YORK CHANGES

1. FRAUD  
 The Company does not provide coverage for any Insured who has made fraudulent statements or engaged in fraudulent conduct in connection with any loss or damage for which coverage is sought under this policy.
2. Any exclusion of loss or damage caused by or resulting from fungus, wet rot or dry rot does not apply when fungus, wet rot or dry rot results from a Covered Cause of Loss.
- B. With respect to any additional coverage for Increased Costs of Coverage, the Company will not pay for:  
 1. The enforcement of or compliance with any ordinance or law which requires demolition, repair, replacement, reconstruction, remodeling, or remediation of property due to contamination by pollutants; or  
 2. Any costs associated with the enforcement of or compliance with an ordinance or law which requires any insured or others to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of pollutants.
- C. With respect to any Ordinance Or Law Coverage, the Company will not pay for:  
 1. Enforcement of or compliance with any ordinance or law which requires the demolition, repair, replacement, reconstruction, remodeling or remediation of property due to contamination by pollutants; or  
 2. The costs associated with the enforcement of or compliance with any ordinance or law which requires any insured or others to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of pollutants.
3. As respects the Ordinance or Law, or Demolition and Increased Cost of Construction, coverage, if any:  
 a. Such coverage shall include the amount of actual and necessary loss the Insured sustains during any increased period of suspension of operations caused by or resulting from a requirement to comply with any ordinance or law that:  
 (1) Regulates the construction or repair of any property;  
 (2) Requires the tearing down of parts of any property not damaged by a covered cause of loss; and  
 (3) Is in force at the time of loss.
- b. However, coverage is not extended hereunder to include loss caused by or resulting from the enforcement of or compliance with any ordinance of law which requires:  
 (1) The demolition, repair, replacement, reconstruction, remodeling or remediation of property due to contamination by pollutants; or  
 (2) Any insured or others to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of pollutants.
4. As respects the owner's interest of any of the following types of buildings or structures:  
 a. Residential (except 1 or 2 family buildings or structures);  
 b. Commercial; or  
 c. Industrial;  
 Before payment to the Insured for loss or damage to the above buildings or structures caused by or resulting from fire, the Company will:  
 (1) Deduct from the Insured's payment the claim of any tax district that issues a certificate of lien in accordance with the Insurance Law; and  
 (2) Pay directly to the tax district the amount of the claim.  
 When the Company pays that claim, the Company will have no obligation to pay the amount of that claim to the insured. The Company's payment of that claim within 30 days of the Company's receipt of the certificate of lien will be a conclusive presumption that the claim was valid and properly paid.
5. With respect to any condition of this policy which requires the Insured to notify the Company of loss or to notify the Company of an accident, claim or suit:  
 a. Notice given by or on the Insured's behalf; or  
 b. Written notice by or on behalf of any claimant;  
 to any of the Company's agents in New York State, which adequately identifies the Insured, will be the same as notice to the Company.
6. With respect to any coverage for loss to property of others in the insured's care, custody or control:  
 a. No person or organization has a right under to this policy:  
 (1) To join the Company as a party or otherwise bring the Company into a suit asking for damages from the insured; or  
 (2) To sue the Company unless all of the policy's terms have been fully complied with. A person or organization may sue the Company to recover on an agreed settlement or on a final judgment against the insured; but the Company will not be liable for damages that are not payable under this policy or that are in excess of the Limit of Insurance. An agreed settlement means a settlement and release of liability signed by the Company, the insured and the claimant or the claimant's legal representative.
- b. The Company will have the right and duty to defend a suit seeking those damages even if the allegations of the suit are groundless, false or fraudulent.
- c. If the Company concludes that, based on claims or "suits" which have been reported to the Company and to which this insurance may apply, a Limit of Insurance is likely to be used up in the payment of judgments or settlements, the Company will notify the first Named Insured, in writing, to that effect.
- d. When the Limit of Insurance has actually been used up in the payment of judgments or settlements:  
 (1) The Company will notify the first Named Insured, in writing, as soon as practicable, that:  
 (a) Such a limit has actually been used up; and

- (b) The Company's duty to defend suits seeking damages subject to that limit has also ended.
- (2) The Company will initiate, and cooperate in, the transfer of control, to any appropriate insured, of all claims and suits seeking damages which are subject to that limit and which are reported to the Company before that limit is used up. That insured must cooperate in the transfer of control of said claims and suits. The Company will take no action whatsoever with respect to any claim or suit seeking damages that would have been subject to that limit, had it not been used up, if the claim or suit is reported to the Company after that limit of insurance has been used up.
- (3) The first Named Insured, and any other insured involved in a suit seeking damages subject to that limit, must arrange for the defense of such suit within such time period as agreed to between the appropriate insured and the Company. Absent such agreement, arrangements for the defense of such suit must be made as soon as practicable.
- e. The first Named Insured will reimburse the Company for expenses the Company incurs in taking those steps the Company deems appropriate in accordance with paragraph d.(2) above. The duty of the first Named Insured to reimburse the Company will begin on:
- (1) The date on which the applicable limit of insurance is used up, if the Company sent notice in accordance with the first sentence of Paragraph c, above; or
- (2) The date on which the Company sent notice in accordance with Paragraph d.(1) above, if the Company did not send notice in accordance with the first sentence of Paragraph c, above.
- f. The exhaustion of any limit of insurance by the payments of judgments or settlements, and the resulting end of the Company's duty to defend, will not be affected by the Company's failure to comply with any of the provisions of this condition.
- 7. EXAMINATION OF THE INSURED'S BOOKS AND RECORDS**
- a. Except as provided in Paragraph b, below, the Company may examine and audit the Insured's books and records as they relate to this policy at any time during the policy period and up to three years afterward.
- b. The Company will conduct an audit to determine the final premium due or to be refunded, for coverage for which an advance or deposit premium was paid based on estimated exposure. But the audit may be waived if:
- (1) The total annual premium attributable to the auditable exposure base is not reasonably expected to exceed \$1,500; or
- (2) The policy requires notification to the insurer with the specific identification of any additional exposure units (e.g., buildings) for which coverage is requested. If the audit is not waived, it must be completed within 180 days after:
- (1) The expiration date of the policy; or
- (2) The anniversary date, if this is a continuous policy or a policy written for a term longer than one year.
- 8. APPRAISAL**
- a. If the Company and the Insured disagree on the value of the property, the extent of the loss or damage or the amount of the loss or damage, either may make written demand for an appraisal of the loss. In this event, each party will select a competent and impartial appraiser and notify the other of the appraiser selected within 20 days of such demand.
- b. If the Company or the Insured fails to proceed with the appraisal of the covered loss after a written demand is made by either party, then either party may apply to a court having jurisdiction for an order directing the party that failed to proceed with the appraisal to comply with the demand for the appraisal of the loss. In this event, each party will select a competent and impartial appraiser and notify the other of the appraiser selected within 20 days of such order.
- c. The two appraisers will select an umpire. If they cannot agree within 15 days upon such umpire, either may request that selection be made by a judge of a court having jurisdiction. As respects physical loss or damage to covered property, the appraisers will state separately the value of the property, the extent of the loss or damage and the amount of the loss or damage. As respects any Time Element loss, the appraisers will state separately the amount of net income and operating expense, the extent of the loss or damage and the amount of the loss or damage. If they fail to agree, they will submit their differences to the umpire. A decision agreed to by any two will be binding.
- d. Each party will:
- (1) Pay its chosen appraiser; and
- (2) Bear the other expenses of the appraisal and umpire equally. If there is an appraisal, the Company will still retain its right to deny the claim.
- 9. ESTIMATION OF CLAIMS**
- Upon request, the Company will furnish the Insured or its representative with a written estimate of damages to real property specifying all deductions, provided such an estimate has been prepared by the Company or has been prepared on the Company's behalf for its own purposes. This estimate will be provided within thirty days after the Insured's request or its preparation, whichever is later.

#### NORTH CAROLINA CHANGES

- 1. LEGAL ACTION AGAINST THE COMPANY**
- No one may bring a suit against the Company under this policy unless:
- a. There has been full compliance with all of the terms of this policy; and
- b. The action is brought within 3 years after the date on which the direct physical loss or property damage occurred.
- 2. APPRAISAL**
- If the Company and the Insured disagree on the value of the property or the amount of loss, either may make written demand for an appraisal of the loss. In this event, each party will select a competent and impartial appraiser. The Insured and the Company must notify the other of the appraiser selected within 20 days of the written demand for appraisal. The two appraisers will select an umpire. If the two appraisers do not agree on the selection of an umpire within 15 days, they must request selection of an umpire by a judge of a court having jurisdiction. The appraisers will state separately the value of the property and amount of loss. If they fail to agree, they will submit their differences to the umpire. A decision agreed to by any two will be the appraised value of the property or amount of loss. If the Insured makes a written demand for an appraisal of the loss, each party will:
- a. Pay its chosen appraiser; and
- b. Bear the other expenses of the appraisal and the umpire equally.
- 3. TIME PERIOD FOR PERFORMANCE OF CONTRACTUAL OBLIGATIONS**
- Whenever a state of disaster is proclaimed for the state of North Carolina or for an area within this state in accordance with state law, or whenever a major disaster is declared for North Carolina or an area within this state by the President of the United States under the Stafford Act or its successors, the following provisions apply:
- a. If the Covered Property that has sustained loss or damage is located within the geographic area designated in the disaster declaration or proclamation, the time period for the Insured's submission of a proof of loss (as set forth in the Duties in The Event Of Loss Or Damage Condition or provision in this policy or in an endorsement attached to this policy) shall be extended by a time period not exceeding the earlier of:
- (1) The expiration of the disaster proclamation or declaration and all renewals of the proclamation; or

- (2) The expiration of the Insurance Commissioner's order declaring action for the specific disaster, as determined by the Insurance Commissioner.
- b. Except as otherwise provided in Paragraph a, above, the following applies if the Insured or the Company reside in or are located in the geographic area designated in the disaster declaration or proclamation:
- If this policy or an endorsement attached to this policy imposes a time limitation on the Insured or the Company for a performance of:
- (1) A premium or debt payment; or
- (2) Any other duty or any act (including transmittal of information),
- under the terms of this policy and such performance would be required during the time period prior to the expiration of the Insurance Commissioner's order declaring action for the specific disaster, as determined by the Insurance Commissioner, the Insured's performance and the Company's performance is subject to a deferral period of 30 days; The Commissioner of Insurance may extend such deferral period.

#### NORTH DAKOTA CHANGES

- 1. EXAMINATION OF THE INSURED'S BOOKS AND RECORDS**
- a. Except as provided in Paragraph b, below, the Company may examine and audit the Insured's books and records as they relate to this policy at any time during the policy period and up to three years afterward.
- b. Any audit conducted to determine the premium due or to be refunded must be completed within 180 days after:
- (1) The expiration date of the policy; or
- (2) The anniversary date, if this is a continuous policy or a policy written for a term longer than one year; unless the Insured agrees in writing to extend the audit period.
- 2. LEGAL ACTION AGAINST THE COMPANY**
- No one may bring a legal action against the Company under this Policy unless:
- a. There has been full compliance with all of the terms of this Policy; and
- b. The action is brought within 3 years after the date on which the direct physical loss or damage occurred. This provision does not apply to any coverage for loss to property of others in the insured's care, custody or control.
- 3. VALUED POLICIES**
- a. When this Policy is written to insure any real property in North Dakota against loss caused by or resulting from any Covered Cause Of Loss, and the property is wholly or completely destroyed by any Covered Cause Of Loss without fraud on the part of the "insured" or assignee, the amount of insurance written on such real property shall be taken to be the true value of the property insured and the true amount of loss and measure of damages, subject to the exceptions and conditions in parts b., c., d., and e., below and in the policy section pertaining to Other Insurance.
- b. If a covered loss occurs within 60 days after the effective date of the Policy or the Limit of Insurance applying to the real property was increased by 25% or more at the insured's request without construction of additions, the Company will pay no more than the lesser of the following:
- (1) The Limit of Insurance under this Policy that applies to the real property; or
- (2) The amount paid in accordance with the policy provisions as if a partial loss occurred.
- c. Paragraph b, above does not apply to:
- (1) Renewal policies for which the Limit of Insurance applying to the real property is increased less than 25%;
- (2) Policies for which the Limit of Insurance applying to the real property has increased by 25% or more due to the construction of additions; or
- (3) Policies for which an increased Limit of Insurance applying to the real property was approved by the Company prior to the loss.
- d. Builders' risk policies of insurance covering property in the process of being constructed shall be valued and settled according to the actual value of that portion of the construction completed at the time of the loss.
- e. The Valued Policy Provisions above and in the policy section pertaining to Other Insurance below do not apply to any claim for loss to an appurtenant or separate structure, unless the appurtenant or separate structure is individually described in the Policy and a value has been assigned to the appurtenant or separate structure before the loss. When the Valued Policy Provisions do not apply, the claim for loss to an appurtenant or separate structure will be settled for actual cash value or replacement cost, depending on the Policy provisions applicable to that structure.
- 4. Valued Policies – Other Insurance**
- With respect to valued policies, if two or more policies are written upon the same property interest and cover the loss, each insurer will pay only that proportion of the cost of the loss that the limit of insurance under its policy bears to the total amount of insurance covering the loss.
- 5. The following exclusion is added:**
- a. The Company will not pay for loss or damage arising out of any act committed:
- (1) By or at the direction of any Insured; and
- (2) With the intent to cause a loss.
- b. However, this exclusion will not apply to deny coverage to an innocent co-insured who did not cooperate in or contribute to the creation of the loss, provided the loss is otherwise covered under this Policy and:
- (1) The loss arose out of domestic violence; and
- (2) The perpetrator of the loss is criminally prosecuted for the act causing the loss.
- c. If the Company pays a claim pursuant to part b, above, the Company's payment to the insured is limited to that insured's ownership interest in the property less any payments the Company first made to a mortgagee or other party with a legal secured interest in the property. In no event will the Company pay more than the Limit of Insurance.
- 6. If the Company pays an innocent co-insured victim of domestic violence for loss arising out of an act of domestic violence by another insured, the rights of the innocent co-insured to recover damages from the perpetrator of the domestic violence are transferred to the Company to the extent of the Company's payment. Following the loss, the innocent co-insured may not waive such rights to recover against the perpetrator of the domestic violence.**

#### OHIO CHANGES

- 1. The Company will give the Insured notice, within 21 days after the Company receives a properly executed proof of loss, that the Company:**
- a. Accepts the Insured's claim;
- b. Denies the Insured's claim; or
- c. Needs more time to investigate the Insured's claim. If the Company needs more time to investigate the Insured's claim, the Company will provide an explanation for the Company's need for more time. The Company will continue to notify the Insured again in writing, at least every 45 days, of the status of the investigation and of the continued time needed for the investigation.
- 2. Provided the Insured has complied with all the terms of this policy, the Company will pay for covered loss or damage within:**



- a. 10 days after the Company accepts the Insured's claim if such acceptance occurs within the first 21 days after the Company receives a properly executed proof of loss, unless the claim involves an action by a probate court or other extraordinary circumstances as documented in the claim file; or
- b. 5 days after the Company accepts the Insured's claim if such acceptance occurs more than 21 days after the Company receives a properly executed proof of loss, and
  - (1) An appraisal award has been made; or
  - (2) The Company has reached an agreement with the Insured on the amount of loss that was in dispute.

#### OKLAHOMA CHANGES.

##### **1. APPRAISAL**

If the Company and the Insured disagree on the value of the property or the amount of loss, either party may make written demand for an appraisal of the loss. In this event, only the party which demanded the appraisal will be bound by the results of that appraisal. Each party will select a competent and impartial appraiser and notify the other of the appraiser selected within 20 days after the written demand for an appraisal has been made. The two appraisers will select an umpire. If they cannot agree upon an umpire within 15 days, then, at the request of either the Insured or the Company, and after notice of hearing to the non-requesting party by certified mail, selection of the umpire will be made by a judge of a district court in the county where the loss occurred. As respects physical loss or damage to covered property, the appraisers will state separately the value of the property and amount of loss. As respects any Time Element loss, the appraisers will state separately the amount of net income and operating expense or amount of loss. If the appraisers submit a written report of agreement to the Company, the amounts agreed upon will be the value of the property and the amount of loss and will be binding on the party which demanded the appraisal. If the appraisers fail to agree, they will submit their differences to the umpire. A decision agreed to by any two will be binding on the party which demanded the appraisal. Each party will:

- a. Pay its chosen appraiser; and
  - b. Bear the other expenses of the appraisal and umpire equally.
- If there is an appraisal, the Company will still retain its right to deny the claim.

##### **2. CONCEALMENT, MISREPRESENTATION OR FRAUD**

The Company does not provide coverage in any case of fraud by the Insured as it relates to this policy at any time. The Company also does not provide coverage if the Insured or any other Insured, at any time, intentionally conceal or misrepresent a material fact concerning:

- a. This policy;
- b. The Covered Property;
- c. The Insured's interest in the Covered Property; or
- d. A claim under this policy.

##### **3. WARNING:**

Any person who knowingly, and with intent to injure, defraud or deceive any insurer, makes any claim for the proceeds of an insurance policy, containing any false, incomplete or misleading information, is guilty of a felony.

#### OREGON CHANGES.

##### **1. CONCEALMENT, MISREPRESENTATION OR FRAUD**

- a. Subject to Paragraphs b. and c. below, this entire policy will be void if, whether before or after a loss, the Insured has willfully concealed or misrepresented any material fact or circumstance concerning this insurance or the subject of it, or the Insured's interest in it, or in case of any fraud or false swearing by the Insured relating to it.
- b. All statements made by the Insured or on its behalf, in the absence of fraud, will be deemed representations and not warranties. No such statements that arise from an error in the application will be used in defense of a claim under this policy unless:
  - (1) The statements are contained in a written application; and
  - (2) A copy of the application is endorsed upon or attached to this Policy when issued.
- c. In order to use any representation made by the Insured or on the Insured's behalf in defense of a claim under the policy, the Company must show that the representations are material and that the Company relied on them.

##### **2. APPRAISAL**

If the Company and the Insured disagree on the value of the property or the amount of loss, both parties may agree to an appraisal of the loss and to be bound by the results of that appraisal. If both parties so agree, then each party will select a competent and impartial appraiser. The two appraisers will select an umpire. If they cannot agree, either may request that selection be made by a judge of a court having jurisdiction. As respects physical loss or damage to covered property, the appraisers will state separately the value of the property and amount of loss. As respects any Time Element loss, the appraisers will state separately the amount of net income and operating expense or amount of loss. If they fail to agree, they will submit their differences to the umpire. A decision agreed to by any two will be binding. Each party will:

- a. Pay its chosen appraiser; and
  - b. Bear the other expenses of the appraisal and umpire equally.
- If there is an appraisal, the Company will still retain its right to deny the claim.
3. The Insured must send the Company a signed, sworn proof of loss containing the information the Company requests to investigate the claim. The Insured must do this within 90 days after the Insured receives the necessary forms from the Company.

##### **4. MORTGAGEHOLDERS**

- a. If loss hereunder is made payable, in whole or in part, to a designated mortgagee not named herein as the Insured, such interest in this policy may be canceled by giving to such mortgagee a 10 days' written notice of cancellation.
  - b. If the Insured fails to render proof of loss such mortgagee, upon notice, shall render proof of loss in the form herein specified within 60 days thereafter and shall be subject to the provisions hereof relating to appraisal and time of payment and of bringing suit. If this company shall claim that no liability existed as to the mortgagor or owner, it shall, to the extent of payment of loss to the mortgagee, be subrogated to all the mortgagee's rights of recovery, but without impairing mortgagee's right to sue; or it may pay off the mortgage debt and require an assignment thereof and of the mortgage. Other provisions relating to the interests and obligations of such mortgagee may be added hereto by agreement in writing.
  - c. The term mortgageholder includes trustee.
  - d. The Company will pay for covered loss of or damage to buildings or structures to each mortgageholder identified in this Policy in their order of precedence, as interests may appear.
  - e. The mortgageholder has the right to receive loss payment even if the mortgageholder has started foreclosure or action on the building or structure.
  - f. If the Company denies the Insured's claim because of the Insured's acts or because the Insured has failed to comply with the terms of this insurance, the mortgageholder will still have the right to receive loss payment if the mortgageholder:
    - (1) Pays any premium due under this insurance at the Company's request if the Insured has failed to do so;
    - (2) Submits a signed, sworn proof of loss in accordance with Paragraph b. above; and
    - (3) Has notified the Company of any change in ownership, occupancy or substantial change in risk known to the mortgageholder.
- All the terms of the affected insurance will then apply directly to the mortgageholder.

- g. If the Company cancels this policy, the Company will give written notice to the mortgageholder:
  - (1) In accordance with Paragraph a. above; or
  - (2) At least:
    - (a) 10 days before the effective date of the cancellation if the Company cancels for the Insured's nonpayment of premium; or
    - (b) 30 days before the effective date of cancellation if the Company cancels for any other reason other than provided for in Paragraph a. above.
- h. If the Company elects not to renew this policy, the Company will give written notice to the mortgageholder at least 10 days before the expiration date of this policy.

#### PENNSYLVANIA CHANGES.

##### **A. Transfer Of Interest In This Policy**

The Insured's rights and duties under this policy may not be transferred without the Company's written consent except in the case of death of an individual named Insured. If the Insured dies, the Insured's rights and duties will be transferred to the Insured's legal representative but only while acting within the scope of duties as its legal representative. Until the Insured's legal representative is appointed, anyone having proper temporary custody of the Insured's property will have its rights and duties but only with respect to that property.

If the Insured dies, this policy will remain in effect as provided in Paragraph 1. or 2. below, whichever is later:

1. For 180 days after the Insured's death regardless of the policy period shown in the Declarations, unless the insured property is sold prior to that date; or
  2. Until the end of the policy period shown in the Declarations, unless the insured property is sold prior to that date.
- Coverage during the period of time after the Insured's death is subject to all provisions of this policy including payment of any premium due for the policy period shown in the Declarations and any extension of that period.

##### **B. NOTICE OF ACCEPTANCE OR DENIAL OF CLAIM**

1. Except as provided in Paragraph 3. below, the Company will give the Insured notice, within 15 working days after the Company receives a properly executed proof of loss, that the Company:

- a. Accepts the Insured's claim;
- b. Denies the Insured's claim; or
- c. Needs more time to determine whether the Insured's claim should be accepted or denied.

If the Company denies the Insured's claim, such notice will be in writing, and will state any policy provision, condition or exclusion used as a basis for the denial.

If the Company needs more time to determine whether the Insured's claim should be accepted or denied, the written notice will state the reason why more time is required.

2. If the Company has not completed its investigation, the Company will notify the Insured again in writing, within 30 days after the date of the initial notice as provided in Paragraph 1. c. above, and thereafter every 45 days. The written notice will state why more time is needed to investigate the Insured's claim and when the Insured may expect the Company to reach a decision on the Insured's claim.

3. The notice procedures in Paragraphs 1. and 2. above do not apply if the Company has a reasonable basis, supported by specific information, to suspect that an insured has fraudulently caused or contributed to the loss by arson or other illegal activity. Under such circumstances, the Company will notify the Insured of the disposition of the Insured's claim within a period of time reasonable to allow full investigation of the claim, after the Company receives a properly executed proof of loss.

- C. Actual cash value is calculated as the amount it would cost to repair or replace Covered Property, at the time of loss or damage, with material of like kind and quality, subject to a deduction for deterioration, depreciation and obsolescence. Actual cash value applies to valuation of Covered Property regardless of whether that property has sustained partial or total loss or damage.

The actual cash value of the lost or damaged property may be significantly less than its replacement cost.

##### **D. "Insurance Consultation Services Exemption Act"**

1. An Insurance Company, its agents, employees, or service contractors acting on its behalf, may provide services to reduce the likelihood of injury, death or loss. These services may include any of the following or related services incident to the application for, issuance, renewal or continuation of, a policy of insurance:

- a. Surveys;
- b. Consultation or advice; or
- c. Inspections.

2. The "Insurance Consultation Services Exemption Act" of Pennsylvania provides that the Insurance Company, its agents, employees or service contractors acting on its behalf, is not liable for damages from injury, death or loss occurring as a result of any act or omission by any person in the furnishing of or the failure to furnish these services. The Act does not apply:

- a. If the injury, death or loss occurred during the actual performance of the services and was caused by the negligence of the Insurance Company, its agents, employees or service contractors;
- b. To consultation services required to be performed under a written service contract not related to a policy of insurance; or
- c. If any acts or omissions of the Insurance Company, its agents, employees or service contractors are judicially determined to constitute a crime, actual malice, or gross negligence.

- E. With respect to covered loss to property of others in the insured's care, custody or control, if the Company initially defends an Insured or pay for an Insured's defense but later determine that none of the claims, for which the Company provided a defense or defense costs, are covered under this insurance, the Company has the right to reimbursement for the defense costs the Company has incurred. The right to reimbursement under this provision will only apply to the costs the Company has incurred after the Company notifies the Insured in writing that there may not be coverage and that the Company is reserving its rights to terminate the defense or the payment of defense costs and to seek reimbursement for defense costs.

#### RHODE ISLAND CHANGES.

##### **1. Appraisal**

- a. To the extent any appraisal condition of this Policy contains the Company's reservation of its right to deny the claim in the event an appraisal is conducted, such reservation is deleted.
- b. The Insured and the Company must notify the other of the appraiser selection within 20 days of the written demand for appraisal.
- c. If the appraisers do not agree on the selection of an umpire within 15 days, they must request selection of an umpire by a judge of a court having jurisdiction.

##### **2. VACANCY AND UNOCCUPANCY**

- a. If the building where loss or damage occurs has been vacant or unoccupied for more than 30 consecutive days after a local building inspector issues an order stating that the building is in violation of the State Building Code, the Company will not pay for any loss or damage caused by fire or lightning.

- b. If the building where loss or damage occurs has been vacant for more than 60 consecutive days before that loss or damage occurs:
- (1) The Company will not pay for any loss or damage caused by any of the following even if they are Covered Causes of Loss:
    - (a) Vandalism;
    - (b) Sprinkler leakage, unless the Insured has protected the system against freezing;
    - (c) Building glass breakage;
    - (d) Water damage;
    - (e) Theft; or
    - (f) Attempted theft.
  - (2) With respect to Covered Causes of Loss other than those listed in b.(1)(a) through b.(1)(f) above, the Company will reduce the amount the Company would otherwise pay for the loss or damage by 15%; However, the Company will not pay for any loss or damage caused by fire or lightning if the circumstances stated in a. above apply.
- c. With respect to Section b., above, when this policy is issued to a tenant, and with respect to that tenant's interest in Covered Property, building means the unit or suite rented or leased to the tenant.
- d. A building is vacant when it does not contain enough business personal property to conduct customary operations.
- e. Buildings under construction or renovation are not considered vacant.
3. No provision, stipulation or forfeiture will be held to be waived by any requirement or proceeding on the Company's part relating to appraisal or to any examination provided for in this policy.
4. With respect to covered loss or damage to buildings by fire or explosion, other than owner-occupied 1- to 4-family dwellings:
- a. The Company will not pay for a loss that is more than \$10,000 unless the Company receives from the Insured a certificate issued by the taxing jurisdiction official that shows:
    - (1) That no lien exists for the benefit of the taxing jurisdiction; or
    - (2) The amount of any such lien that exists;
 against the building or structure.  
 The \$10,000 limit shown above may be adjusted yearly for inflation by the Insurance Department.
  - b. Under the following conditions, the Company will put its payment for loss or damage into an interest-bearing escrow account:
    - (1) The taxing jurisdiction official certifies that a lien exists; The Company will not put more than the amount of that lien into the account;
    - (2) The Insured does not receive a certificate from the taxing jurisdiction official within 30 days after the Insured files a statement of loss with the Company. In this case, the Company will put the entire loss payment into the account.
  - c. But, if the Insured can prove to the Company that:
    - (1) The Insured has requested the certificate by certified mail; and
    - (2) The taxing jurisdiction official has not provided it to the Insured within 15 days after the Insured's request;
 The Company will make its payment directly to the Insured as soon as possible.
  - d. Also, if the taxing authority certifies that it has received proof that the Insured will repair or rebuild on the same premises where the loss or damage occurred, the Company can then pay the Insured directly for the loss or damage.
5. **LEGAL ACTION AGAINST THE COMPANY**
- a. No one may bring a suit against the Company under this policy unless there has been full compliance with all of the terms of this policy.
  - b. Subject to Paragraph a. above, any action on this policy for the recovery of any claim for direct loss or damage by fire and lightning must be brought within 2 years after the date on which such direct loss or damage occurred.
  6. A Mortgagee shall not be entitled to payment of a claim under this policy for loss or damage to a covered building when such loss or damage is less than \$3,500, and for which said Mortgagee is otherwise entitled to payment, unless no liability exists as to the mortgagee.
  7. With respect to any coverage for loss to property of others in the insured's care, custody or control, the Company will pay with respect to any claim or suit against the insured that the Company defends:
    - a. Prejudgment interest awarded against the Insured on the entire judgment if the Company rejects a written settlement offer by the plaintiff that is equal to or less than the applicable limit of insurance in this policy; or
    - b. If Paragraph 7.a. above does not apply, prejudgment interest awarded against the Insured on that part of the judgment the Company pays.

#### SOUTH CAROLINA CHANGES

#### **LEGAL ACTION AGAINST THE COMPANY**

No one may bring a suit against the Company under this policy unless:

1. There has been full compliance with all of the terms of this policy; and
2. The action is brought within 3 years after the date on which the direct physical loss or damage occurred.

#### SOUTH DAKOTA CHANGES:

#### **A. APPRAISAL**

1. If the Company and the Insured disagree on the value of the property or the amount of the loss, both parties may agree to an appraisal of the loss. If both parties so agree, then each party will select a competent and impartial appraiser. The two appraisers will select an umpire. If they cannot agree, either may request that selection be made by a judge of a court having jurisdiction. As respects physical loss or damage to covered property, the appraisers will state separately the value of the property and the amount of loss. As respects any Time Element loss, the appraisers will state separately the amount of net income and operating expense and the amount of loss. If they fail to agree, they will submit their differences to the umpire. Any outcome of the appraisal will not be binding on either party. Each party will:
  - a. Pay its chosen appraiser; and
  - b. Bear the other expenses of the appraisal and umpire equally.
 If the Company submits to an appraisal, the Company will retain its right to deny the claim.

#### **B. LEGAL ACTION AGAINST THE COMPANY**

No one may bring a suit against the Company under this policy unless the action is brought within 6 years after the date on which the direct physical loss or damage occurred.

#### **C. VALUATION:**

1. When this policy insures any real property in South Dakota against loss by fire, tornado or lightning and the property insured is wholly destroyed by fire, tornado or lightning, without criminal fault on the part of the Insured or the Insured's assignee, the amount of the insurance written on such real property shall be taken conclusively to be the true value of the property insured and the true amount of loss and measure of damages, subject to the exceptions and conditions in Paragraphs 2, through 6, below.
2. Paragraph 1, above, does not apply to a fire loss which occurs less than 90 days after:
  - a. The policy was initially issued; or
  - b. The amount of insurance on the destroyed property was increased by 25% or more at the Insured's request.

However, the Valued Policy Provision applies if the amount of insurance was increased:

- (1) In accordance with an inflation adjustment option; or
  - (2) As a consequence of upgrading coverage to a replacement cost basis, provided there is a written agreement between the Insured and the Company that the policy will be written on a valued basis.
3. Builders risk policies of insurance covering property in the process of being constructed shall be valued and settled according to the actual value of that portion of the construction completed at the time of the fire, tornado or lightning loss.
  4. Property in the process of being newly constructed for the purpose of serving as a residence, other than property covered by a builders risk policy, shall be valued and settled according to the terms and conditions of the policy for valuation of that portion of the construction completed at the time of the fire, tornado or lightning loss.
  5. If two or more policies are written upon the same property interest and cover the fire, tornado or lightning loss, each insurer will pay only that proportion of the cost of the loss that the limit of liability under its policy bears to the total amount of insurance covering the loss.
  6. Paragraph 1, above, does not apply to any claim for total loss to any building which is insured under a blanket form or endorsement with one limit of insurance applicable to two or more buildings. Any claim for total loss to a building insured on such blanket basis will be settled at actual replacement cost or at actual cash value, depending on the policy provisions applicable to the building.

#### **D. LEGAL ACTION AGAINST THE COMPANY**

No person or organization has a right under this policy to join the Company as a party or otherwise bring the Company into a suit asking for damages from the Insured. A person or organization may sue the Company to recover on an agreed settlement or on a final judgment against the Insured obtained after an actual trial; but the Company will not be liable for damages that are not payable under the terms of this policy or that are in excess of the Limit of Insurance. An agreed settlement means a settlement and release of liability signed by the Company, the Insured and the claimant or the claimant's legal representative.

#### TEXAS CHANGES:

1. **Appraisal**  
 As respects physical loss or damage to covered property, if the Company and the Insured disagree on the amount of loss, either may make written demand for an appraisal of the loss. As respects any Time Element loss, if the Company and the Insured disagree on the amount of net income and operating expense or the amount of loss, either may make written demand for an appraisal of the loss. In this event, each party will select a competent and impartial appraiser and notify the other of the appraiser selected within 20 days of such demand. The two appraisers will select an umpire. If they cannot agree within 15 days upon such umpire, either may request that selection be made by a judge of a court having jurisdiction. Each appraiser will state the amount of loss. If they fail to agree, they will submit their differences to the umpire. A decision agreed to by any two will be binding as to the amount of loss. Each party will:
  - a. Pay its chosen appraiser; and
  - b. Bear the other expenses of the appraisal and umpire equally.
 If there is an appraisal:
  - a. The Insured will still retain its right to bring a legal action against the Company, subject to the provisions of the Legal Action Against the Company condition; and
  - b. The Company will still retain its right to deny the claim.
2. **Duties in the Event of Loss:**
  - a. The Insured will give the Company prompt notice of the loss or damage. Include a description of the property involved. However, with respect to loss or damage in the State of Texas caused by windstorm or hail in the catastrophe area as defined by the Texas Insurance Code, any claim must be filed with the Company not later than one year after the date of the loss or damage that is the subject of the claim, except that a claim may be filed after the first anniversary of the date of the loss or damage for good cause shown by the person filing the claim.
  - b. The Insured will send the Company a signed, sworn proof of loss containing the information the Company requests to investigate the claim. The Insured must do this within 91 days after the Company's request. The Company will supply the Insured with the necessary forms.
3. **Claims Handling**
  - a. Within 15 days after the Company receives written notice of claim, the Company will:
    - (1) Acknowledge receipt of the claim. If the Company does not acknowledge receipt of the claim in writing, the Company will keep a record of the date, method and content of the acknowledgment;
    - (2) Begin any investigation of the claim; and
    - (3) Request a signed, sworn proof of loss, specify the information the Insured must provide and supply the Insured with the necessary forms. The Company may request more information at a later date, if during the investigation of the claim such additional information is necessary.
  - b. The Company will notify the Insured in writing as to whether:
    - (1) The claim or part of the claim will be paid;
    - (2) The claim or part of the claim has been denied, and inform the Insured of the reasons for denial;
    - (3) More information is necessary; or
    - (4) The Company needs additional time to reach a decision. If the Company needs additional time, the Company will inform the Insured of the reasons for such need.
  - c. The Company will provide notification, as described in Paragraphs b.(1) through b.(4) above, within:
    - (1) 15 business days after the Company receives the signed, sworn proof of loss and all information the Company requested; or
    - (2) 30 days after the Company receives the signed, sworn proof of loss and all information the Company requested, if the Company has reason to believe the loss resulted from arson.
 If the Company has notified the insured that the Company needs additional time to reach a decision, the Company must then either approve or deny the claim within 45 days of such notice.
  - d. The Company will pay for covered loss or damage within 5 business days after:
    - (1) The Company has notified the Insured that payment of the claim or part of the claim will be made and have reached agreement with the Insured on the amount of loss; or
    - (2) An appraisal award has been made.
 However, if payment of the claim or part of the claim is conditioned on the Insured's compliance with any of the terms of this policy, the Company will make payment within 5 business days after the date the Insured has complied with such terms.
  - e. **Catastrophe Claims**
    - (1) If a claim results from a weather related Catastrophe or a Major Natural Disaster, the claim handling and claim payment deadlines described above are extended for an additional 15 days.
    - (2) Catastrophe or Major Natural Disaster means a weather related event which:
      - (a) Is declared a disaster under the Texas Disaster Act of 1975; or
      - (b) Is determined to be a catastrophe by the State Board of Insurance.



- f. The term "business day" means a day other than Saturday, Sunday or a holiday recognized by the state of Texas.
4. Pursuant to Chapter 862 – Subsection 862.053, Policy A Liquidated Demand, a fire insurance policy, in case of total loss by fire of property insured, shall be held and considered to be a liquidated demand against the insurer for the full amount of such policy. The provisions of this Article shall not apply to personal property.
5. MORTGAGEHOLDER:
- a. If the Company denies the Insured's claim because of the Insured's acts or because the Insured has failed to comply with the terms of this policy, a mortgageholder will still have the right to receive loss payment if the mortgageholder:
- (1) Pays any premium due under this policy at the Company's request if the Insured has failed to do so;
  - (2) Submits a signed, sworn proof of loss within 91 days after receiving notice from the Company of the Insured's failure to do so; and
  - (3) Has notified the Company of any change in ownership, occupancy or substantial change in risk known to the mortgageholder
- All of the terms of this policy will then apply directly to the mortgageholder.
- b. If this policy is cancelled, the Company will give the mortgageholder(s) named in the policy written notice of cancellation.
- c. If the Company cancels this policy, the Company will give written notice to the mortgageholder at least:
- (1) 14 days before the effective date of cancellation if the Company cancels for the Insured's nonpayment of premium; or
  - (2) 30 days before the effective date of cancellation if the Company cancels for any other reason.
- If the Insured cancels the policy, the Company will give the mortgageholder notice of cancellation to be effective on the date stated in the notice. The date of cancellation cannot be before the 10th day after the date the Company mails the notice.
6. Legal Action Against The Company
- a. Except as provided in Paragraph b., below, no one may bring a suit against the Company under this policy unless:
- (1) There has been full compliance with all the terms of this policy; and
  - (2) The action is brought within 2 years and 1 day from the date the cause of action first accrues. A cause of action accrues on the date of the initial breach of the Company's contractual duties as alleged in the action.
- b. With respect to loss or damage in the State of Texas caused by windstorm or hail in the catastrophe area as defined by the Texas Insurance Code, no one may bring a suit against the Company under this policy unless:
- (1) There has been full compliance with all the terms of this policy; and
  - (2) The action is brought within the earlier of the following:
    - (a) 2 years and 1 day from the date the Company accepts or rejects the claim; or
    - (b) Three years and one day from the date of the loss or damage that is the subject of the claim.
- This provision does not apply to any coverage for loss to property of others in the insured's care, custody or control.
7. With respect to any coverage for loss to property of others in the insured's care, custody or control, the Company will notify the first Named Insured in writing of:
- a. An initial offer to settle a claim made or suit brought against the insured. The notice will be given not later than the 10<sup>th</sup> day after the date on which the offer is made.
  - b. Any settlement of a claim made or suit brought against the insured under this coverage. The notice will be given not later than the 30<sup>th</sup> day after the date of the settlement.

#### UTAH CHANGES

1. FRAUD OR MISREPRESENTATION
- This policy may be voided in the event of fraud or misrepresentation by the Insured relating to:
- a. This policy;
  - b. The Covered Property;
  - c. The Insured's interest in the Covered Property; or
  - d. A claim under this policy,
- subject to the following provisions of Utah Code Section 31A-21-105:
- (1) No statement, representation, or warranty made by any person representing the Company in the negotiation for an individual insurance contract affects the Company's obligations under this policy unless the statement, representation, or warranty is stated:
    - (a) In this policy; or
    - (b) In a written application signed by the Insured.

No person, except the Insured or another person by the Insured's written consent, may alter the application, other than for administrative purposes in a way which is clearly not ascribable to the Insured.
  - (2) The Insured, its assignee and the loss payee, mortgagee or lienholder, if any, under property insurance, may request, in writing, from the Company a copy of the application, if:
    - (a) This policy or a copy of the application has not been received; or
    - (b) This policy has been reinstated or renewed without the attachment of a copy of the original application.

If the Company does not deliver or mail a copy of the application, within 30 days after receipt of the request by the Company or the Company's agent, nothing in the application affects the Company's obligations under this policy to the person making the request.
  - (3) Except as provided in Paragraph (6) below, no misrepresentation or breach of an affirmative warranty affects the Company's obligations under this policy unless:
    - (a) The Company relies on it and it is either material or is made with intent to deceive; or
    - (b) The fact misrepresented or falsely warranted contributes to the loss.
  - (4) No failure of a condition prior to the loss, and no breach of a promissory warranty, affects the Company's obligations under this policy unless it:
    - (a) Exists at the time of the loss; and
    - (b) Either:
      - (i) Increases the risk at the time of the loss; or
      - (ii) Contributes to the loss.

However, this Paragraph (4) does not apply to nonpayment of premium.
  - (5) Nondisclosure of information not requested by the Company is not a defense to an action against the Company. Failure to correct within a reasonable period of time any representation that becomes incorrect because of changes in circumstances is misrepresentation, not nondisclosure.
  - (6) If, after the Company issues this policy, the Company acquires knowledge of sufficient facts to constitute a general defense to all claims under this policy, the defense is only available if, within 60 days after acquiring such knowledge the Company notifies the insured of the Company's intention to defend against a claim if one should arise. However, in order to continue this policy, the Company and the insured may both agree to endorse it to include specific exceptions or modifications. For purposes of this paragraph (6), the Company is to be considered as having acquired knowledge only if the information alleged to give rise to such knowledge

was disclosed to the Company or to its agent in connection with communications or investigations associated with the policy under which the subject claim arises.

- (7) No trivial or transitory:
    - (a) Breach of; or
    - (b) Noncompliance with;

any of the above provisions is a basis for avoiding this policy.
  2. If there is other insurance covering the same loss or damage, other than that described in the paragraph above, the Company will pay only for the amount of covered loss or damage in excess of the amount due from that other insurance. But the Company will not pay more than the applicable Limit of Insurance.
  3. Legal Action Against The Company
- No one may bring a suit against the Company under this policy unless the action is brought within 3 years after the date on which the direct physical loss or damage occurred,
4. Notification and Proof of Loss:
- a. The Insured must give prompt notice of the loss or damage to the Company or its agent, including a description of the property involved. The Insured may fulfill this requirement by mailing the notice to the Company, postage prepaid, through first class mail deposited in a United States Post Office.
  - b. The Insured must send the Company a signed, sworn proof of loss containing the information the Company requests to settle the claim. The Company will supply the Insured with the necessary forms. The Insured must send the proof of loss within 60 days after the Company's request. Failure to send the requested proof of loss within 60 days does not invalidate the Insured's claim, if the Insured shows that it was not reasonably possible to do so and also show that the Insured submitted the proof of loss to the Company as soon as reasonably possible. The Insured may send the requested proof of loss by mailing it to the Company, postage prepaid, through first class mail deposited in a United States Post Office.
5. The Legal Action Against The Company condition is deleted from coverage for legal liability for property in the care, custody or control of the insured, if any.
6. As respects coverage for legal liability for property of others, if any, the Insured may send written notice or other material by mailing it to the Company, postage prepaid, through first class mail deposited in a United States Post Office. Notice to the Company's agent is considered notice to the Company.

#### VERMONT CHANGES

- 1 The Insured's right to bring legal action against the Company is not conditioned upon the Insured's compliance with the provisions of the APPRAISAL Condition, if any.
  2. The Company will pay for covered loss or damage within 10 working days after the Company reaches agreement with the Insured on the amount of loss, provided the Company receives the sworn proof of loss within 30 days and the following are satisfied:
    - a. In the event of loss or damage covered by this policy, at the Company's option, the Company will either:
      - (1) Pay the value of lost or damaged property;
      - (2) Pay the cost of repairing or replacing the lost or damaged property, subject to Paragraph b. below;
      - (3) Take all or any part of the property at an agreed or appraised value; or
      - (4) Repair, rebuild or replace the property with other property of like kind and quality, subject to Paragraph b. below.

The Company will determine the value of lost or damaged property, or the cost of its repair or replacement, in accordance with the applicable terms of the Valuation Condition or any applicable provision which amends or supersedes the Valuation Condition.
  - b. The cost to repair, rebuild or replace does not include the increased cost attributable to enforcement of or compliance with any ordinance or law regulating the construction, use or repair of any property.
  - c. The Company will not pay the Insured more than your financial interest in the Covered Property.
  - d. The Company may adjust losses with the owners of lost or damaged property if other than the Insured. If the Company pays the owners, such payments will satisfy the Insured's claims against the Company for the owners' property. The Company will not pay the owners more than their financial interest in the Covered Property.
  - e. The Company may elect to defend the Insured against suits arising from claims of owners of property. The Company will do this at the Company's expense.
3. CONCEALMENT, MISREPRESENTATION OR FRAUD
- The Company will not pay for any loss or damage in any case of:
- a. Concealment or misrepresentation of a material fact; or
  - b. Fraud;
- committed by the Insured at any time and relating to coverage under this policy
4. The following provisions are added to coverage for legal liability for property of others in the care, custody or control of the Insured, if any, and replace any provision to the contrary:
- a. In addition to paying and satisfying judicial judgments rendered against the Insured in consequence of claims to which this policy applies, the Company will protect the Insured against the levy of executions issued on such judgments or claims against the Insured.
  - b. The Company may, without the Insured's consent, continue litigation after a judgment has been rendered with respect to the Insured's legal liability under this policy for damages in a particular instance, in that event, no limitation of the Company's liability will be valid where the matter of that litigation is concerned
  - c. Under this policy, any legal action against the Company to recover for loss under this policy must be brought within one year after amount of loss is finally established. The amount of loss can be established only by:
    - (1) Judicial judgment; or
    - (2) An agreement between the parties involved with the Company's written consent.
  - d. In the event of the Insured's bankruptcy or insolvency, an injured person or claimant who has obtained a judgment against the Insured may bring suit against the Company, provided:
    - (1) The judgment was for damages covered by this policy; and
    - (2) The suit is for damages in amounts no greater than the applicable Limits of Insurance of this policy.
  - e. Payment by the Insured of any judicial judgment or claim for any of the Company's liability under this policy will not deprive the Company of the right to bring action against the Company.

#### VIRGINIA CHANGES

- 1 Coverage under this policy begins at 12:01 A.M. (Standard Time) at the mailing address shown in the Declarations. However, to the extent that this policy replaces coverage in other policies terminating at 12:01 A.M. (Standard Time) on the inception date of this policy at the location of the property involved, coverage under this policy, at each location, becomes effective when such other coverage terminates.
  2. Appraisal
- If the Company and the Insured disagree on the value of the property or the amount of loss, either may make written demand for an appraisal of the loss. In this event, each party will select a competent and impartial appraiser. The Insured and the Company must notify the other of the appraiser selected within 20 days of the written demand for appraisal. The two

appraisers will select an umpire. If the appraisers do not agree on the selection of an umpire within 15 days, the Insured or the insurer may apply in writing, for the appointment of an umpire, to the judge of the circuit court of the county or city in which the damaged or destroyed property was located at the time of loss. The appraisers will state separately the value of the property and amount of loss. If the appraisers submit a written report of an agreement to the Company, the amount agreed upon will be the amount of loss. If they fail to agree, they will submit their differences to the umpire. A decision agreed to by any two will set the amount of loss. Any outcome of the appraisal will be binding on both parties. Each party will:

- a. Pay its chosen appraiser; and
  - b. Bear the other expenses of the appraisal and umpire equally.
- However, if the Company makes written demand for an appraisal of the loss, the Company will reimburse the Insured for the reasonable cost of the Insured's chosen appraiser, and for the Insured's portion of the cost of the umpire.

If there is an appraisal, the Company will still retain its right to deny the claim.

### 3. With respect to Replacement Cost coverage, if any:

The Insured may make an initial claim for loss or damage covered by this insurance on an actual cash value basis instead of on a replacement cost basis. In the event the Insured elects to have loss or damage settled on an actual cash value basis, the Insured may still make a claim for the additional coverage this Replacement Cost coverage provides if the Insured notifies the Company of its intent to do so within six months of the later of the following dates:

- a. The last date on which the Insured received a payment for actual cash value; or
- b. The date of entry of a final order of a court of competent jurisdiction declaring the Insured's right to full replacement cost.

### 4. Fire Department Service Charge

a. When the fire department is called to save or protect Covered Property from a Covered Cause of Loss, the Company will pay up to \$1,000 for service at each premises described in the Declarations, unless a higher limit is shown in the Declarations. Such limit is the most the Company will pay regardless of the number of responding fire departments or fire units, and regardless of the number or type of services performed. This Additional Coverage applies to the Insured's liability for fire department service charges:

- (1) Assumed by contract or agreement prior to loss; or
- (2) Required by local ordinance.

b. If the fire department service charge is not covered under the terms of Paragraph a. above, then the following applies:

When a volunteer fire department is called to save or protect Covered Property from a Covered Cause of Loss, the Company will pay the amount billed to the Insured, up to \$250, unless a higher limit is shown in the Declarations for volunteer fire department service charges.

This Additional Coverage applies to the Insured's liability for service charges billed to the Insured by a volunteer fire department, provided that:

- (1) The volunteer fire department is not fully funded by real estate taxes or other property taxes; and
- (2) The service charge is not made in response to a call outside of the volunteer fire department's fire protection district, city or municipality pursuant to a contract.

No Deductible applies to this Additional Coverage.

### WASHINGTON CHANGES

#### 1. The term actual cash value means:

a. When the damage to property is economically repairable, actual cash value means the cost of repairing the damage, less reasonable deduction for wear and tear, deterioration and obsolescence.

b. When the loss or damage to property creates a total loss, actual cash value means the market value of property in a used condition equal to that of the destroyed property, if reasonably available on the used market.

c. Otherwise, actual cash value means the market value of new, identical or nearly identical property less reasonable deduction for wear and tear, deterioration and obsolescence.

2. As respects any coverage for legal liability for property of others in the Insured's care, custody or control, if the Company initially defends an Insured or pay for an Insured's defense but later determine that none of the claims, for which the Company provided a defense or defense costs, are covered under this insurance, the Company has the right to reimbursement for the defense costs the Company has incurred. The right to reimbursement under this provision will only apply to the costs the Company has incurred after the Company notifies the Insured in writing that there may not be coverage and that the Company is reserving its rights to terminate the defense or the payment of defense costs and to seek reimbursement for defense costs.

3. a. The Company will not pay for loss or damage arising out of any act committed:

- (1) By or at the direction of any Insured; and
- (2) With the intent to cause a loss.

b. However, this exclusion or the Concealment, Misrepresentation Or Fraud condition will not apply to deny an Insured's claim for an otherwise covered property loss if such loss is caused by an act of "domestic abuse" by another Insured under the policy, and the Insured making claim:

- (1) Files a police report and cooperates with any law enforcement investigation relating to the act of "domestic abuse"; and
- (2) Did not cooperate in or contribute to the creation of the loss.

c. If the Company pays a claim pursuant to the provisions added by Paragraph b. above, the Company's payment to the innocent Insured is limited to that Insured's ownership interest in the property less any payments the Company first made to a mortgagee or other party with a legal secured interest in the property. In no event will the Company pay more than the Limit of Insurance:

4. If the Company pays an Insured, who is a victim of "domestic abuse", for a loss caused by an act of "domestic abuse", the rights of that Insured to recover damages from the perpetrator of the abuse are transferred to the Company to the extent of the Company's payment. That Insured may not waive such rights to recover against the perpetrator of the "domestic abuse".

5. As used in this WASHINGTON CHANGES provision, "domestic abuse" means:

- a. Physical harm, bodily injury, assault or the infliction of fear of imminent physical harm, bodily injury or assault between family or household members;
- b. Sexual assault of one family or household member by another;
- c. Stalking, as defined in RCW 9A.46.110 of one family or household member by another family or household member; or
- d. Intentionally, knowingly or recklessly causing damage to property so as to intimidate or attempt to control the behavior of another family or household member.

6. The policy contains all the agreements between the Insured and the company concerning the insurance afforded. The first named Insured shown in the declarations is authorized to make changes in the terms of this policy with the Company's consent. This policy's terms can be amended or waived only by endorsement issued by the company and made a part of this policy.

#### 7. Examination Of The Insured's Books And Records

The Company may examine and audit the Insured's books and records as they relate to this policy at any time during the policy period and up to three years afterward.

### 8. Inspection And Surveys

a. The Company has the right to:

- (1) Make inspections and surveys at any time;
- (2) Give the Insured reports on the conditions the Company finds; and
- (3) Recommend changes.

b. The Company is not obligated to make any inspections, surveys, reports or recommendations, and any such actions the Company does undertake relate only to insurability and the premiums to be charged. The Company does not make safety inspections. The Company does not undertake to perform the duty of any person or organization to provide for the health or safety of workers or the public. And the Company does not warrant that conditions:

- (1) Are safe or healthful; or
- (2) Comply with laws, regulations, codes or standards.

c. Paragraphs a. and b. of this condition apply not only to the Company, but also to any rating, advisory, rate service or organization which makes insurance inspections, surveys, reports or recommendations.

d. Paragraph b. of this condition does not apply to any inspections, surveys, reports or recommendations the Company may make relative to certification, under state or municipal statutes, ordinances or regulations, of boilers, pressure vessels or elevators.

### 9. Premiums

The first Named Insured shown in the Declarations:

- a. Is responsible for the payment of all premiums; and
- b. Will be the payee for any return premiums the Company pays.

### 10. Transfer Of The Insured's Interest In This Policy

The Insured's rights and duties under this policy may not be transferred without the Company's written consent except in the case of death of an individual Named Insured. If the Insured dies, the Insured's rights and duties will be transferred to its legal representative but only while acting within the scope of duties as the Insured's legal representative. Until The Insured's legal representative is appointed, anyone having proper temporary custody of the Insured's property will have its rights and duties but only with respect to that property.

7. Any introductory paragraph preceding an exclusion or list of exclusions is replaced by the following paragraph, which pertains to application of those exclusions:

The Company will not pay for loss or damage caused by any of the excluded events described below. Loss or damage will be considered to have been caused by an excluded event if the occurrence of that event:

- a. Directly and solely results in loss or damage; or
- b. Initiates a sequence of events that results in loss or damage, regardless of the nature of any intermediate or final event in that sequence.

The following exclusions are added and replace any similar provisions to the contrary:

#### Water

1. Flood, surface water, waves (including tidal wave and tsunami), tides, tidal water, overflow of any body of water, or spray from any of these, all whether or not driven by wind (including storm surge);
2. Mudslide or mudflow;
3. Water that backs up or overflows or is otherwise discharged from a sewer, drain, sump, sump pump or related equipment;
4. Water under the ground surface pressing on, or flowing or seeping through:
- a. Foundations, walls, floors or paved surfaces;
- b. Basements, whether paved or not; or
- c. Doors, windows or other openings; or
5. Waterborne material carried or otherwise moved by any of the water referred to in Paragraph 1., 3. or 4., or material carried or otherwise moved by mudslide or mudflow.

This exclusion applies if any of the above, in Paragraphs 1. through 5.:

- (a) Occurs independently;
- (b) Is caused by an act of nature;
- (c) Is caused by an act or omission of humans or animals; or
- (d) Is attributable to the failure, in whole or in part, of a dam, levee, seawall or other boundary or containment system.

But if any of the above, in Paragraphs 1. through 5.; results in fire, explosion or sprinkler leakage, the Company will pay for the loss or damage caused by that fire, explosion or sprinkler leakage (if sprinkler leakage is a Covered Cause of Loss).

#### Weather Conditions

The Company will not pay for loss or damage caused by or resulting from any of the following:

1. A weather condition which results in:
  - a. Landslide, mudslide or mudflow;
  - b. Mine subsidence; earth sinking, rising or shifting (other than sinkhole collapse);
  - c. Water, as described in Paragraphs 1. through 5. above;

But if loss or damage by fire, explosion or sprinkler leakage results, the Company will pay for the loss or damage caused by that fire, explosion or sprinkler leakage (if sprinkler leakage is a Covered Cause of Loss).

2. A weather condition which results in the failure of power, communication, water or other utility service supplied to the described premises, if the failure:

- a. Originates away from the described premises; or
- b. Originates at the described premises, but only if such failure involves equipment used to supply the utility service to the described premises from a source away from the described premises.

But if loss or damage by a Covered Cause of Loss results, the Company will pay for that resulting loss or damage.

#### Earth Movement

1. Earthquake, including tremors and aftershocks and any earth sinking, rising or shifting related to such event;
2. Landslide, including any earth sinking, rising or shifting related to such event;
3. Mine subsidence, meaning subsidence of a man-made mine, whether or not mining activity has ceased;
4. Earth sinking (other than sinkhole collapse), rising or shifting including soil conditions which cause settling, cracking or other disarrangement of foundations or other parts of realty. Soil conditions include contraction, expansion, freezing, thawing, erosion, improperly compacted soil and the action of water under the ground surface.

But if Earth Movement, as described in Paragraphs 1. through 4. above, results in fire or explosion, the Company will pay for the loss or damage caused by that fire or explosion, Volcanic eruption, explosion or effusion. But if volcanic eruption, explosion or effusion results in fire, building glass breakage or Volcanic Action, the Company will pay for the loss or damage caused by that fire, building glass breakage or Volcanic Action. Volcanic Action means direct loss or damage resulting from the eruption of a volcano when the loss or damage is caused by:

- a. Volcanic blast or airborne shock waves; or
- b. Ash, dust or particulate matter.

This exclusion applies if any of the above, in Paragraphs 1. through 5.:

- a. Occurs independently;
- b. Is caused by an act of nature; or
- c. Is caused by an act or omission of humans or animals;

### WEST VIRGINIA CHANGES

1. In settlement of all or part of any claim, the Company will pay the amount agreed upon within 15 working days after:
  - a. The Company's receipt of the agreement; or
  - b. The date of the performance by the claimant of any condition set by the agreement; whichever is later.
2. **Total Losses**  
In case of total loss by fire or other covered cause of loss, the Company will pay the Limit of Insurance stated in this policy applicable to the real property.
3. **Partial Losses**  
In the case of partial loss by fire or other covered cause of loss, the Company will pay the total amount of the partial loss; but the Company will not pay more than the Limit of Insurance applicable to the real property.
4. The Coinsurance Condition of the policy and depreciation do not apply to real property loss settlements. This section will not apply if there is insurance written by another insurer covering the same interest in the real property.
5. **Appraisal**  
If the Company and the Insured disagree on the value of the property or the amount of loss, either may make written demand for an appraisal of the loss. In this event, each party will select a competent and impartial appraiser and notify the other of the appraiser selected within 20 days of such demand. The two appraisers will select an umpire. If they cannot agree within 15 days upon an umpire, either may request that selection be made by a judge of a court having jurisdiction. As respects physical loss or damage to covered property, the appraisers will state separately the value of the property and the amount of loss. As respects any Time Element loss, the appraisers will state separately the amount of net income and operating expense and amount of loss. If they fail to agree, they will submit their differences to the umpire. A written decision agreed to by any two will be binding. Each party will:
  - a. Pay its chosen appraiser; and
  - b. Bear the other expenses of the appraisal and umpire equally.

If there is an appraisal, the Company will still retain its right to deny the claim.

#### WYOMING CHANGES:

1. **LEGAL ACTION AGAINST THE COMPANY**  
No one may bring a suit against the Company under this policy unless:
  - a. There has been full compliance with all of the terms of this policy; and
  - b. The action is brought within 4 years beginning from the date on which the direct physical loss or damage was discovered.
2. Claims for benefits under this policy shall be rejected or accepted and paid by the Company or the Company's agent designated to receive those claims within 45 days after receipt of the claim and supporting bills.
3. With respect to coverage for legal liability for property of others in the care, custody or control of the Insured, if any:
  - a. If the Company initially defends an Insured or pay for an Insured's defense but later determine that none of the claims, for which the Company provided a defense or defense costs, are covered under this insurance, the Company has the right to reimbursement for the defense costs the Company has incurred. The right to reimbursement under this provision will only apply to the costs the Company has incurred after the Company notifies the Insured in writing that there may not be coverage and that the Company is reserving its rights to terminate the defense or the payment of defense costs and to seek reimbursement for defense costs.
  - b. The Company's right and duty to defend end when the Company has exhausted the applicable Limit of Insurance in the payment of judgments or settlements. But the tender of policy limits before judgment or settlement does not relieve the Company of its duty to defend.

Damages include prejudgment interest awarded against the Insured.

All other terms and conditions of this Policy remain unchanged.

**CHUBB®**

## **NOTIFICATION OF CLAIMS**

### **To our Brokers/Agents-To Be Kept With Policy**

#### **What to do when Loss Occurs:**

1. Upon knowledge of any occurrence likely to give rise to a claim hereunder, "you" must give immediate notice to:  
  
Chubb Property Claims  
One Beaver Valley Road, Suite 4E  
Wilmington, Delaware 19803  
  
E-Mail: [propertyfirstnotices@chubb.com](mailto:propertyfirstnotices@chubb.com)  
  
Fax: (302) 476-7855  
  
Phone: (800) 433-0385
2. Chubb Property claims cannot be processed through any other facility and must be reported as indicated above.
3. Adjustors can only be assigned by or with the specific authorization of the Chubb Property Claims Department.



## Notice to Policyholders

### TRADE OR ECONOMIC SANCTIONS Practices & Policies

This insurance does not apply to the extent that trade or economic sanctions or other laws or regulations prohibit us from providing insurance, including, but not limited to, the payment of claims.

**CHUBB®**

**Chubb Producer Compensation  
Practices & Policies**

Chubb believes that policyholders should have access to information about Chubb's practices and policies related to the payment of compensation to brokers and independent agents. You can obtain that information by accessing our website at <http://www.chubbproducercompensation.com> or by calling the following toll-free telephone number: 1-866-512-2862.



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## **U.S. TREASURY DEPARTMENT'S OFFICE OF FOREIGN ASSETS CONTROL ("OFAC") ADVISORY NOTICE TO POLICYHOLDERS**

No coverage is provided by this Policyholder Notice nor can it be construed to replace any provisions of your policy. You should read your policy and review your Declarations page for complete information on the coverages you are provided.

This Notice provides information concerning possible impact on your insurance coverage due to directives issued by OFAC. **Please read this Notice carefully.**

The Office of Foreign Assets Control (OFAC) administers and enforces sanctions policy, based on Presidential declarations of "national emergency". OFAC has identified and listed numerous:

- I Foreignagents;
- I Frontorganizations;
- I Terrorists;
- I Terroristorganizations; and
- I Narcoticstraffickers;

as "Specially Designated Nationals and Blocked Persons". This list can be located on the United States Treasury's web site – <http://www.treas.gov/ofac>.

In accordance with OFAC regulations, if it is determined that you or any other insured, or any person or entity claiming the benefits of this insurance has violated U.S. sanctions law or is a Specially Designated National and Blocked Person, as identified by OFAC, this insurance will be considered a blocked or frozen contract and all provisions of this insurance are immediately subject to OFAC. When an insurance policy is considered to be such a blocked or frozen contract, no payments nor premium refunds may be made without authorization from OFAC. Other limitations on the premiums and payments also apply.

**SIGNATURES**

Named Insured Resort Hotel Association, Inc.			Endorsement Number 024
Policy Symbol GPA	Policy Number D42219174 003	Policy Period 03/08/2020 to 03/08/2021	Effective Date of Endorsement 03/08/2020
Issued By (Name of Insurance Company) ACE American Insurance Company			

Insert the policy number. The remainder of the information is to be completed only when this endorsement is issued subsequent to the preparation of the policy.

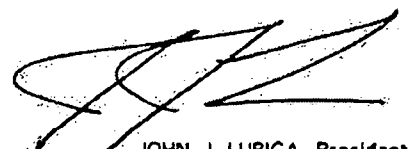
THE ONLY SIGNATURES APPLICABLE TO THIS POLICY ARE THOSE REPRESENTING THE COMPANY NAMED ON THE FIRST PAGE OF THE DECLARATIONS.

By signing and delivering the policy to you, we state that it is a valid contract.

INDEMNITY INSURANCE COMPANY OF NORTH AMERICA (A stock company)  
 BANKERS STANDARD FIRE AND MARINE COMPANY (A stock company)  
 BANKERS STANDARD INSURANCE COMPANY (A stock company)  
 ACE AMERICAN INSURANCE COMPANY (A stock company)  
 ACE PROPERTY AND CASUALTY INSURANCE COMPANY (A stock company)  
 INSURANCE COMPANY OF NORTH AMERICA (A stock company)  
 PACIFIC EMPLOYERS INSURANCE COMPANY (A stock company)  
 ACE FIRE UNDERWRITERS INSURANCE COMPANY (A stock company)  
 WESTCHESTER FIRE INSURANCE COMPANY (A stock company)

436 Walnut Street, P.O. Box 1000, Philadelphia, Pennsylvania 19106-3703

  
 REBECCA L. COLLINS, Secretary

  
 JOHN J. LUPICA, President

\_\_\_\_\_  
 Authorized Representative

**Chubb. Insured.™**



1818 Market Street, Suite 2720  
Philadelphia, PA 19103  
T: (215) 832-0322  
F: (215) 832-0328

September 15, 2021

Ms. Lisa Zumbrum  
Director, Risk Management  
Herschend Family Entertainment Corporation  
100 Meadow View Lane  
Pine Mountains, GA 31822

Sent Via E-Mail - [lisa.zumbrum@hfcorp.com](mailto:lisa.zumbrum@hfcorp.com)

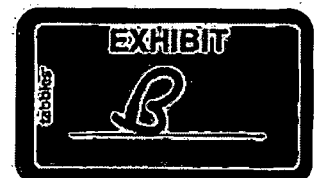
Re:	Insured:	Resort Hotel Association - Callaway Gardens Resort
	Sedgwick File No.:	PHI-20106580
	ACE American Claim No.:	KY20K226049X
	ACE American Policy No.:	GPA D42219174 003 (US)
	<u>Date of Loss:</u>	<u>Reported as March 23, 2020</u>

Dear Ms. Zumbrum,

Sedgwick has been retained in connection with the above-referenced claim by the insurers providing first-party property coverage to Callaway Gardens Resort ("Callaway") for the policy period March 8, 2020 through March 8, 2021. This letter is issued on behalf of ACE American Insurance Company ("ACE") pursuant to policy number GPA D42219174 003 (US) (the "ACE Policy") issued by ACE for the March 8, 2020 through March 8, 2021 policy period. The only authorized communications concerning coverage are those communications in writing from ACE or ones - such as this letter - which expressly state that they have authorized the writing on its behalf. Sedgwick is responsible to gather and confirm factual information sufficient to permit ACE to evaluate whether coverage is afforded under the ACE Policy and to ascertain the amounts that are claimed and can be supported. It is ACE alone, and not Sedgwick or any other individual or entity, which have the authority to accept or deny coverage under the ACE Policy.

Callaway's Claim

Callaway has sought coverage under subparagraph 20.h (4) of the ACE Policy. The facts regarding Callaway's claim were discussed in the March 30, 2021 reservation of rights letter and the May 21, 2021 denial letter.



In its May 26, 2021 letter, Callaway reiterated that it is seeking coverage under subparagraph 20.h. (4) of the ACE Policy, and asserted that coverage is triggered by Executive Order numbers 03.23.20.01, 04.02.20.01 and 04.08.20.04. Callaway requested that ACE further review Callaway's claim. On June 10, 2021, ACE acknowledged receipt of the May 26 letter and advised Callaway that they were reviewing the letter and would provide a response once that review was complete.

ACE's Coverage Position

ACE has further reviewed Callaway's claim, including the information and arguments in the May 26, 2021 letter. For the reasons discussed below and in the May 21, 2021 letter, ACE maintains its position that there is no coverage for Callaway's claim under subparagraph 20.h.4 of the ACE Policy. To the extent Callaway seeks coverage under any other provisions of the ACE Policy, ACE continues to reserve all rights.

Subparagraph 20.h. of the ACE Policy provides in relevant part as follows:

**20. EXTENSIONS OF BUSINESS INTERRUPTION COVERAGE**

This Policy, subject to all its provisions and without increasing the amount of said Policy, insures against loss, Business Interruption, Extra Expenses, Expense to Reduce Loss, Soft Costs, Rental Value, Rental Income, Royalties and Leasehold Interest (collectively, "Contingent Business Interruption") resulting from the perils insured against, to the following:

\* \* \*

h) Loss of Attraction - This Policy is extended to insure loss as insured hereunder, including Clean Up and Remediation, when there is an interruption or interference with the business of the Insured as a consequence of:

1. Infectious or contagious disease manifested by any person while on the premises of the Insured and access to such location is limited, restricted or prohibited by an order of an authorized governmental agency regulating the actual not suspected presence of communicable disease.

However, this coverage will not apply to any losses sustained from an event arising from the 2019 Coronavirus (COVID-19).

\* \* \*

4. Closing of the whole or part of the Covered Property of the Insured by order of a public authority consequent upon the existence or threat of hazardous conditions either actual or suspected at the Covered Property of the Insured.

As ACE advised in the May 21, 2021 letter, there is no coverage under subparagraph 20.h. (4). To trigger coverage under this subparagraph, issuance of an order of a public authority consequent upon certain conditions either actual or suspected at Covered Property of the Insured is required. The Executive Orders referred to by Callaway were not issued because of any conditions at Callaway's property. Instead, the orders were issued as a general response to COVID-19 cases in Georgia and were intended to curb the growth of COVID-19 cases in Georgia generally.

Callaway asserts that the language of the orders encompasses Callaway's property because the orders are written in broad language. Subparagraph 20.h. (4), however, does not provide coverage on such a broad basis. Subparagraph 20.h.(4) applies when there has been a "Closing of the whole or part of the Covered Property of the Insured by order of a public authority consequent upon the existence or threat of hazardous conditions either actual or suspected at the Covered Property." The orders referred to by Callaway were not issued because of the existence or threat of any condition at Callaway Gardens.

Moreover, the Executive Orders did not close the Covered Property. Restrictions on use do not constitute a total or partial closure. In its May 26 letter, Callaway states that "Order 04.08.20.04 addresses the specific limitation around Short Term Rentals." By its terms, however, the limitations concerning "Vacation Rentals" contained in this order do not apply to "hotels" and "extended stay hotels" as defined by the Rules and Regulations of the State of Georgia.

Even if the orders referred to by Callaway did close the Covered Property, such closure would not trigger coverage under subparagraph 20.h. (4) because subparagraph 20.h. (4) does not apply to "infectious or contagious disease." Subparagraph 20.h. (1) of the Loss of Attraction provision provides coverage, subject to the terms of the ACE Policy, for interruption of business as a consequence of "contagious or infectious disease," and identifies the specific requirements under which infectious or contagious disease may be covered. Among other requirements, the infectious or contagious disease must be manifested by a person while on the insured's property. Moreover, in the ACE Policy, coverage for infectious or contagious disease under subparagraph 20.h. (1) of the Loss of Attraction provision expressly excludes coronavirus/COVID-19. Callaway, however, expressly does not seek coverage under subparagraph 20.h (1).

Subparagraph 20.h (4) does not refer to "contagious or infectious disease," but instead expressly refers to "hazardous conditions." Thus the ACE Policy clearly differentiates between "contagious or infectious disease" on the one hand, and "hazardous conditions" on the other. To include infectious or contagious disease, such as COVID-19, within the scope of subparagraph 20.h. (4) renders the differentiation

between the two provisions meaningless, which is not a reasonable interpretation of the ACE Policy.

If Callaway has any information that it believes would alter ACE's coverage position, please forward it to us for further evaluation. ACE will review the information without prejudice to its denial, which denial remains effective unless we notify you in writing of a change in their position. To the extent Callaway seeks coverage under any other provisions in the ACE Policy, ACE requests that Callaway so state in writing and that Callaway provide responses to the requests for information in the March 30, 2021 letter. ACE continues to reserve all rights with respect to all other provisions in the ACE Policy, as set forth in the March 30, 2021 letter.

This letter is not, and should not be construed as, a waiver of any terms, conditions, exclusions or other provisions of the ACE Policy or any rights or defenses under the ACE Policy. ACE expressly reserves all rights under the ACE Policy, including the right to amend the above disclaimer to include any additional grounds for disclaimer of coverage. All rights are reserved.

If you should have any questions, please do not hesitate to contact me.

Very truly yours,

**Sedgwick, Inc.**



Connor Crawford  
National General Adjuster

Cc: Charles McAninley, Sedgwick  
Tammy Glaser, Resort Hotel Association  
Kristin Kronick, Alliant  
Jesse McCoy, Palmer and Cay



1818 Market Street, Suite 2720  
Philadelphia, PA 19103  
T: (215) 832-0322  
F: (215) 832-0328

October 15, 2021

Ms. Lisa Zumbrum  
Director, Risk Management  
Herschend Family Entertainment Corporation  
100 Meadow View Lane  
Pine Mountains, GA 31822

Sent Via E-Mail - [lisa.zumbrum@lifecorp.com](mailto:lisa.zumbrum@lifecorp.com)

Re:	Insured:	Resort Hotel Association - Callaway Gardens Resort
	Sedgwick File No.:	PHI-20106580
	ACE American Claim No.:	KY20K226049X
	ACE American Policy No.:	GPA D42219174 003 (US)
	Allied World Claim No.:	P014353/010-001
	Allied World Policy No.:	PG2012221
	<u>Date of Loss:</u>	<u>Reported as March 23, 2020</u>

Dear Ms. Zumbrum,

I write in response to your September 27, 2021 letter which you sent on behalf of Callaway Gardens Resort ("Callaway").

Sedgwick has been retained in connection with the above-referenced claim by the insurers providing first-party property coverage to Callaway for the policy period March 8, 2020 through March 8, 2021. This letter is issued on behalf of ACE American Insurance Company ("ACE") and Allied World Assurance Company ("Allied World") (collectively, the "Insurers"), pursuant to the policies issued by each of them in the March 8, 2020 through March 8, 2021 policy period.<sup>1</sup> The only authorized communications concerning coverage are those communications in writing from the Insurers or ones - such as this letter - which expressly state that they have authorized the writing on its behalf. Sedgwick is responsible to gather and confirm factual information sufficient to permit the Insurers to evaluate whether coverage is afforded

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<sup>1</sup> Each of ACE and Allied issued, severally, its own policy in this policy period. For purposes of convenience, their policies are collectively referred to as the Policy.



under the Policy and to ascertain the amounts that are claimed and can be supported. It is the Insurers alone, and not Sedgwick or any other individual or entity, which have the authority to accept or deny coverage under the Policy.

For the reasons discussed below, and the reasons set forth in the letters of May 21, 2021 and September 15, 2021, which are incorporated herein by reference, the Insurers' position remains that there is no coverage under sub-paragraph 20.h.4 for Callaway's claim.<sup>2</sup>

As the Insurers have previously stated, all of the possibly applicable coverages provided by the Policy, other than the Loss of Attraction coverage, require direct physical loss of or damage to Covered Property to trigger coverage. Callaway has not demonstrated any physical loss or damage. Thus, no coverage other than the Loss of Attraction coverage is at issue.

Callaway seeks coverage based on the threat of COVID-19, which is an infectious or contagious disease, at its Covered Property. The Policy, however, does not provide coverage for the threat of an infectious or contagious disease at Callaway's property. The Policy only provides coverage in the event of an actual manifestation of an infectious or contagious disease by a person on the premises of the insured. This is made clear in sub-paragraph 20.h (1).<sup>3</sup>

Callaway, however, interprets sub-paragraph 20.h (4) to dramatically expand the coverage provided for infectious or contagious disease. Callaway's position is that sub-paragraph 20.h.4 applies to the threat of, or suspected presence of, infectious or contagious disease at its property.

As the Insurers have previously stated, Callaway's interpretation is unreasonable. Sub-paragraph 20.h (4) does not contain the phrase "infectious or contagious disease". Sub-paragraph 20.h (4) uses the phrase "hazardous conditions". Callaway asserts that the phrase "hazardous conditions", in isolation, arguably includes "infectious or contagious disease." That cannot be so with regard to the Policy, because the Policy uses the phrase "infectious or contagious disease" in sub-paragraph 20.h (1), but uses the entirely different phrase "hazardous conditions" in sub-paragraph 20.h (4). Thus, in this instance, the phrase "hazardous conditions" cannot be interpreted to include "infectious or contagious disease".

Moreover, the effect of Callaway's proposed interpretation would be to exponentially increase the coverage for infectious or contagious disease. Sub-paragraph 20.h (1), subject to the Policy provisions, expressly limits coverage for infectious or contagious disease to the actual manifestation of infectious or contagious disease while a person is on the Covered Property. As Callaway agrees, there is no coverage provided in sub-paragraph 20.h (1) for the threat of infectious or contagious disease either actual

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<sup>2</sup> Allied hereby joins in the September 15, 2021 letter issued by ACE.

<sup>3</sup> In this instance, as Callaway acknowledges, sub-section 20.h.1 does not apply because of the COVID-19 carve-out.



or expected at the Covered Premises. Yet Callaway's interpretation of sub-paragraph 20.h (4) would have the exact effect of creating such coverage.

Further, Callaway's interpretation would render sub-paragraph 20.h (1) surplusage. Sub-paragraph 20.h (1) provides coverage solely for the actual manifestation of infectious or contagious disease on the Covered Property. Sub-paragraph 20.h (4) applies to the actual existence of "hazardous conditions" at the Covered Property. If the phrase "hazardous conditions" were interpreted to include COVID-19, then sub-paragraph 20.h (1) would be useless because it would be completely subsumed by sub-paragraph 20.h (4).

Moreover, Callaway's interpretation of sub-paragraph 20.h (4) would eviscerate the exclusion for COVID-19 coverage. Sub-paragraph 20.h (1), in accordance with its terms, expressly excludes coverage for COVID-19. Thus, the intent is clearly to eliminate infectious or contagious disease coverage for COVID-19. Interpreting "hazardous conditions" to include COVID-19 effectively eliminates that exclusion.

Your September 27, 2021 letter states that Callaway has villas and cottages that are sold to residents and rented as "Vacation Rentals". This statement does not appear to bring such properties within the scope of Georgia Executive Order 04.08.20.04. Even if it did, there would still be no coverage under sub-paragraph 20.h (4).

For these reasons, and the reasons set forth in the May 21, 2021 and September 15, 2021 letters, there is no coverage under sub-paragraph 20.h (4) for Callaway's claim.

If Callaway has any information that it believes would alter the Insurers' coverage position, please forward it to us for further evaluation. The Insurers will review the information without prejudice to their denial, which denial remains effective unless we notify you in writing of a change in their position. To the extent Callaway seeks coverage under any other provisions in the Policy, the Insurers request that Callaway so state in writing and that Callaway provide responses to the requests for information in the March 30, 2021 letter. The Insurers continue to reserve all rights with respect to all other provisions in the Policy, as set forth in the March 30, 2021 letter.

This letter is not, and should not be construed as, a waiver of any terms, conditions, exclusions or other provisions of the Policy or any rights or defenses under the Policy. The Insurers expressly reserve all rights under the Policy, including the right to amend the above disclaimer to include any additional grounds for disclaimer of coverage. All rights are reserved.

If you should have any questions, please do not hesitate to contact me.

Very truly yours,

**Sedgwick, Inc.**

*Connor Crawford*

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